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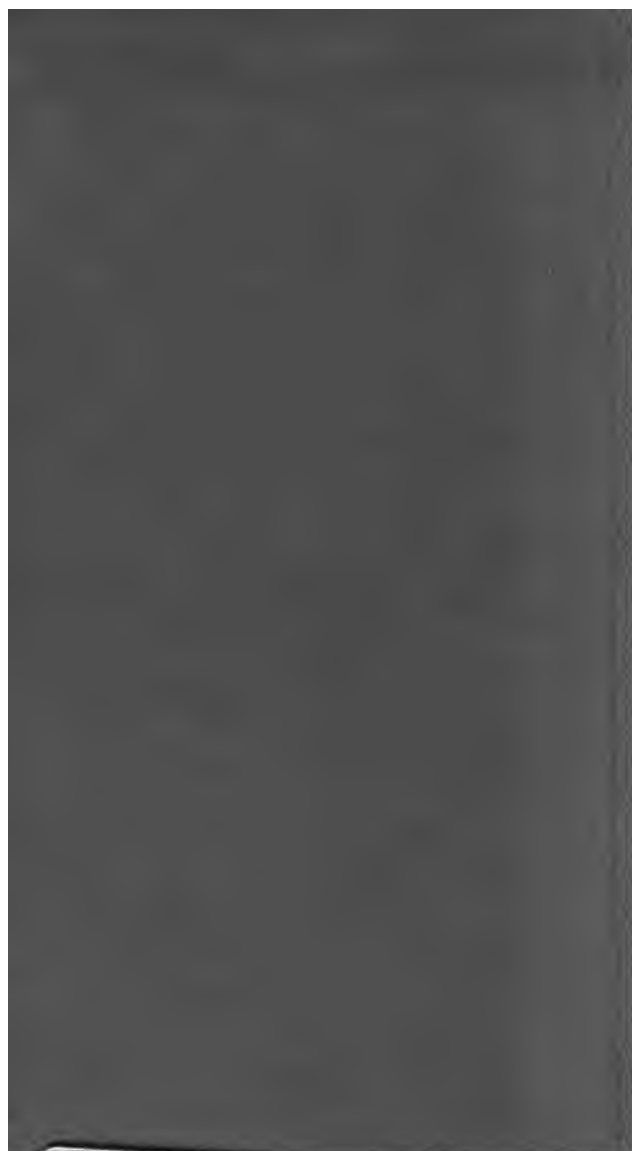
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THE
POWERS AND DUTIES
OF THE
TOWN OFFICER,
AS CONTAINED IN THE
STATUTES OF MAINE;

WITH FORMS ADAPTED THERETO.

INCLUDING ALSO THE POWERS AND DUTIES OF

Plantation & Parish Officers,

AND OTHER USEFUL MATTER.

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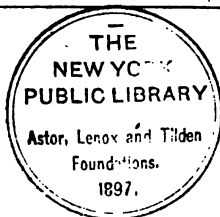
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TOWN OFFICER.

ASSAY MASTER.

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| 2. Oath of Office. | to make assay. |
| 3. Duties of inspection and trial. | ib. Distillers to produce certificate. |
| ib. Liability of Distiller. | 5. Fees of Assay Master and Clerk. |

§ 1. In each town within this State, where the distilling trade is carried on, it may be lawful for the inhabitants thereof, at their annual town meeting for choice of town officers, to choose two or more Assay Masters. *ch. 29, s. 3.*

2. Assay Masters, chosen to that office, shall make oath as follows, viz. I, A. B. do solemnly swear that I will, to the best of my skill, prove and make trial of all worms and still heads within the town of C. that are used, or designed to be made use of, in distilling, that shall come to my knowledge, for which there is no certificate in the town clerk's book, and will make a true and faithful report thereof to the town clerk, for the time being. *So help me God.*
s. 5.

3. It shall be the business of Assay Masters to inspect and make trial of any such heads and worms, as shall be suspected by them; and if upon their assaying and trial of them, they be found to be made of lead, or of other base metal, or to have an alloy of lead or other base metal in them, they shall give notice thereof to the distiller or owner thereof, who is hereby forbidden to make any further use thereof in distilling, under the aforesaid* penalty of three hundred dollars.

* If any person shall presume to distil or draw off any spirits or strong liquors through leaden heads, worms or pipes, upon legal conviction thereof, before any court of competent jurisdiction, he shall forfeit and pay the sum of three hundred dollars. *Sec. 1.*

4. Assay Masters or Inspectors are hereby empowered to enter into any stillhouse, or place where such utensils are suspected to be kept, and to cut off so much of them as shall be needful to make an assay or trial of them. And every distiller shall be obliged to produce a certificate, under the hands of the Assay Masters, for the time being, for all the pewter heads and worms which they shall make use of in distilling, that they have been tried and approved of by them for good pewter, and that they have put their mark and number upon them; for which mark a stamp shall be forthwith prepared at the town charge. *ch. 29, s. 4.*

5. For said certificate and every assay made by them, they shall be allowed by the distiller or owner of such heads and worms, the sum of ONE DOLLAR. The said certificate, with mark and number to be entered in the Town Clerk's book, for which service the Town Clerk shall be allowed ten cents.
s. 5.

ASSESSORS.

A.—Choice and appointment of Assessors; mode of qualifying them; compensation.

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[See titles PARISHES, PLANTATIONS and ELECTIONS, for other duties of Assessors.]

A.—Choice and appointment of Assessors; mode of qualifying them; compensation.

§ 1. Annually at the same meeting when other town officers are chosen by the respective towns in this State, there shall be chosen by the qualified voters then present and voting, or the major part of them, three or five meet persons, to be Assessors of all such rates and taxes as the Legislature shall order and appoint such town to pay, towards the charges of the Government within the space of one year from the choice of such Assessors, unless the warrant for the assessment shall not be by them received before the first day of March succeeding, and in case of its being received afterwards, it shall be delivered to their successors in office, who shall be under the same obligations to make the assessment as their predecessors would have been under, if they had seasonably received the same, who shall also be the Assessors of county and town taxes. *ch. 116, s. 1.*

2. The Selectmen of every such town, when any one or more of the Assessors so chosen and duly notified to take the oath of office, shall neglect to appear, or appearing shall refuse to be sworn, shall forthwith, after notice thereof, summon a meeting of the qualified voters of such town to choose an Assessor or Assessors in the room of such Assessor or

Assessors so refusing, which voters, so assembled, shall accordingly choose so many Assessors as shall be wanting to complete the number which the town at the time of the first choice voted should be elected. *ch. 116, s. 1.*

3. If any town shall not choose Assessors as aforesaid, or if so many of them so chosen shall refuse to accept, as that there shall not be such a number of them as any town shall vote to be the Assessors thereof, then the Selectmen of such town shall be, and hereby are declared and appointed the Assessors thereof; and every one of them shall be duly sworn to the discharge of the trust. *s. 2.*

4. Each Assessor so chosen or appointed as hereinafter prescribed, shall within the space of seven days* next after being notified thereof, be sworn before a Justice of the Peace, or before the Town Clerk to the faithful discharge of his duty, in the form following: You, A. B. one of the Assessors for the of C for the year ensuing, do swear, that you will proceed equally and impartially, according to your best skill and judgment, in assessing and apportioning all such rates and taxes as you may, according to law, be directed to assess and apportion during that time. *So help you God. s. 1.*

5. Each Assessor shall be paid out of the town treasury one dollar for each whole day he shall be necessarily employed in that service. *s. 2.*

6. If any town shall neglect to make choice of Selectmen or Assessors, the said default being made known unto the Court of Common Pleas within the same county, such town shall forfeit and pay a sum not exceeding \$300, nor less than \$100, as the said Court shall order, for the use of this State; and in such case, as also where neither the Selectmen nor Assessors chosen by any town, shall accept the trust or having accepted the trust, shall not perform their duty, the Court of Sessions† in the same county shall be, and hereby are empowered to nominate and appoint three or more sufficient freeholders within such county, to be Assessors of the rates or taxes in such town as aforesaid. *s. 3.*

7. The Assessors so appointed, after being duly sworn, shall assess the polls and estates within such town, their due

* They may be sworn afterwards. See Clerk of Towns, A. note.*

† The powers of the Court of Common Pleas transferred to the District Court. *ch. 373, s. 1.*

‡ The powers of Court of Sessions transferred to County Commissioners. *ch. 500, 1831.*

proportion to any tax, according to law, with the aforesaid penalty where the town makes default as aforesaid, and such additional sum as shall answer their own reasonable charges for time and expense in the said service, not exceeding one dollar and fifty cents per day for each man so employed; and having made such assessment, shall issue a warrant under their hands for collecting the same, and transmit a certificate thereof to the Treasurer, with the name of the officer to whom they shall commit the same to be collected; and such Assessors shall be paid their charges as abovesaid, the same being adjusted and certified by two or more Justices of the Court, by whom they were appointed Assessors, under their hands, out of the public treasury, by warrant from the Governor, with the advice and consent of Council.

s. 3.

8. All Assessors, chosen or appointed, are to obey warrants of the State Treasurer, on penalty of forfeiting the amount of the warrant; and, for want of estate, may be arrested on warrant to be issued by the Treasurer. And the Court of Sessions in the county where such deficient Assessors dwell, shall be, and hereby are directed and empowered forthwith to appoint other meet persons to be Assessors of such rates or taxes, according to the directions contained in the Treasurer's warrant issued unto the former Assessors; and the Assessors, who shall be so appointed, shall take the oath, and perform the same duties, and be liable to the same penalties as the former Assessors.* s. 5.

B. — General power and duty of Assessors relative to assessment and abatement of taxes and committing warrants to officers.

§ 1. The Assessors of each town or plantation, in convenient time before they proceed to make any assessment, shall give seasonable warning to the inhabitants by posting up notifications in some public place in said town or plantation, or notify the respective inhabitants in some other way, to make and bring in to them, the said Assessors, true and perfect lists of their polls, and of all their estates both real and personal (saving* such estate as is or may by law, from time to time, be exempted from taxation,) which they

* For manner of filling vacancy, see Elections, C. 9.

were possessed of at such periods as the Legislature may from time to time order and direct. *ch. 116, s. 12.*

2. If they suspect any falsehood in the lists of polls or estates to them presented as aforesaid, then the said Assessors or either of them, shall require the person presenting such list, to make solemn oath that the same is true; which oath the Assessors, or either of them are hereby empowered to administer; and such list being exhibited on oath, shall be a rule for that person's proportion of the tax. *s. 12.*

3. It shall be the duty of the cashiers of the several Banks, and the Clerks or Secretaries of the several incorporated companies in this State, respectively, which possess property liable by law, to be taxed, on the written demand or request of the Assessors, or major part of them, of any town or plantation, to make out, sign and deliver to them, a written list, certified by oath, if thereto required by said Assessors, of all the stockholders in such bank or other incorporated company, residing in such town or plantation, with the number of shares and amount of stock owned by each, on the first day of April then next preceding, or any subsequent day specified by said Assessors, prior to such request; *provided*, that such duty shall not be required of said cashiers oftener than once in each year by the Assessors of any such town or plantation. *Stat. 1832, ch. 16, s. 1.*

4. If any such cashier, secretary or clerk, shall refuse or unnecessarily neglect to furnish such list on requisition as aforesaid, he shall forfeit and pay the sum of fifty dollars, for every such refusal or neglect to the use of the town or plantation where such Assessors reside, to be recovered by the Treasurer of such town or plantation in any court competent to try the same. *s. 2.*

5. If any person or persons shall at any time, be aggrieved at the sum or sums set and apportioned upon him or them by the Assessors of any town or plantation, and shall make it appear unto the Assessors for the time being of such town or plantation, that he or they are rated more than his or their proportion, according to the rules given in the act or acts of the Legislature for making the said assessment, the said Assessors for the time being shall make a reasonable abatement to the person or persons so aggrieved. *ch. 116, s. 13.*

6. And if they shall refuse so to do, such person or persons complaining in writing unto the next Court of Sessions within that county, and making it appear that he or they are over-rated as abovesaid, he or they shall be relieved

by the said Court, and shall be reimbursed out of the treasury of the town or plantation where such assessment was made, so much as the said Court or Assessors, respectively, shall see cause to abate him or them, with the charges; and the said Court of Sessions are empowered, on such complaint being made, to require the Assessors or Clerk to produce the valuation by which the assessment is made, or a copy thereof. *ch. 116, s. 13.*

7. If any person or persons shall not bring in a list of their estates, according to legal warning or notification by Assessors, he, she, or they, so neglecting or refusing, shall not be admitted to make application to the Court of Sessions for any abatement of the assessment so laid on him, her or them, unless such person or persons shall make it appear to the said Court that it was not within the power of him, her or them, to deliver to the Assessors respectively, a list of his, her or their ratable estate, at the time appointed for that purpose. *s. 12.*

8. All county, town and plantation rates and taxes shall be assessed and apportioned by the Assessors of the several towns or plantations within this State, upon the polls of, and estates within the same, according to the rules that shall be prescribed in and by this act, and the then last tax act* of the Legislature.

9. It shall be the duty of the Assessors to make a record of their assessment, and of the invoice or valuation from which such assessment shall have been made, and before the taxes are committed to the proper officer for collection, deposit the same or a copy thereof, in the Assessor's office, when any such is kept, otherwise, with the town clerk, with whom it shall remain, for the purpose of affording to all persons interested an opportunity for examining any error that may have happened in the assessment of any tax; and it shall not be necessary to deposit any other record or copy of the invoice or valuation or of their assessment with the town clerk, or any other person whatever. And any place where the Assessors usually meet to transact business, or keep their papers or books, shall be considered their office for the purposes aforesaid. *ch. 337, s. 2.*

10. The Assessors of any town, in assessing any State, county or town taxes, may and hereby are authorized at their election to assess improved lands, houses or tenements to the tenants in possession of the same, or to the owner or owners thereof, whether such owner or owners reside within this State or elsewhere. *ch. 229, s. 1.*

* See provisions of tax act at the end of this title, and notes.

11. When Assessors continue to assess any real estate to the person to whom it was last assessed, such assessment shall be valid, notwithstanding the ownership or occupancy of such estate may have been changed, unless previous notice be given by the owner or occupant to one of the Assessors, stating when he ceased to be owner or occupant, and the name of the person to whom such estate was transferred or surrendered. And any tenant in common, or joint tenant of a freehold or other estate, real or personal, may be considered the sole owner for the purpose of taxation, unless he shall make known to the Assessors the amount and kind of interest he has in such estate. *ch. 337, s. 4.*

12. The Assessors for any town or plantation may and are hereby authorized and empowered to apportion on the polls and estates according to law, such additional sum over and above the precise sum to them committed to assess, as any fractional division of such precise sum may render convenient in the apportionment thereof, not exceeding five per centum on the sum so committed; and it shall be the duty of such Assessors to certify such town or plantation Treasurer thereof. *ch. 116, s. 14.*

13. It shall and may be lawful for the Assessors of any town or plantation to add their proportion of the State and County tax to any of their other taxes, and make out warrants and certificates accordingly. *s. 16.*

14. They shall make perfect lists of their assessments under their hands, or the hands of the major part of them, and commit the same to the Constable or Constables, Collector or Collectors of their town, if any there be, otherwise to the Sheriff, or his deputy, with a warrant under their hands in the form hereinafter* directed, and return a certificate thereof to the Treasurer of this State, for the time being, with the name of the officer to whom they shall have committed the same assessment, with a warrant as aforesaid to collect. *s. 1.*

15. Whenever the owner of lands or tenements shall have died seized thereof and they shall not have been taken into possession by his devisees or distributed among his heirs, or sold according to the provisions of law, the Assessors are authorized to assess the same to the executors or administrators of said person deceased, specifying in the tax bills their capacity as executors or administrators as aforesaid. And said assessment against said executors or administrators

* See under this head, G.

shall be enforced and collected of them in the same manner as taxes assessed against them in their private capacity may be enforced and collected. *Stat.* 1832, *ch.* 38.

16. When any Assessors after having completed the assessment of any tax, shall discover that they have, through accident or mistake, omitted any polls or estate liable to be assessed, they may, during the term for which they were elected, by a supplement to the invoice or valuation, and to the list of assessments assess such polls and estates, their proportion of such tax, according to the principles on which such assessment was made, certifying that the same were omitted by mistake or accident; and such supplemental list of assessments shall be committed to the collector, with a certificate under the hands of the Assessors, or a major part of them, stating that such taxes were omitted in the list previously committed to him, and that the powers contained in their previous warrant, (specifying the date thereof,) are extended to such supplemental list. And the collector shall have the same power in collecting such taxes, that he may have in collecting those contained in the original list committed to him: and he shall be subject to the same liabilities that he is subject to in collecting other taxes: And all assessments shall be valid, notwithstanding, that by such supplemental invoice or assessment, the whole amount thereof shall exceed the sums to be assessed, by more than five per cent.; or may alter the proportion of the tax allowed by law to be assessed on the polls. *ch.* 337, *s.* 3.

17. Whenever a fine is imposed on any town or plantation for the repair of any highway, the Clerk of the Court shall certify the same to the Assessors of such town or plantation, whose duty it shall be thereupon, to assess the same upon the polls and estates of such town, in the same manner as town taxes are assessed, and commit the same to the Collector thereof, to be collected and paid to the agent appointed by the Court to superintend the collection and appropriation of such fine at such time as said Court shall appoint: and the Clerk shall be authorized, on application of such agent, to issue a warrant to enforce the collection of such fine. *ch.* 300, *s.* 4.

18. If the Assessors neglect to make such assessment, and to certify the same to the Clerk of the Court, and such town or plantation shall not cause the highway to be repaired, to the acceptance of the agent, and pay the costs of prosecution to the Clerk, within four months, a warrant of distress may issue for such fine and costs. *s.* 5.

19. The Assessors for the time being, of any town or plantation empowered to raise money by taxes, whenever it shall be made to appear to them by any Constable or Collector of taxes in the town, or other such place of which they are Assessors, that an original or other warrant, issued and delivered to him for the collection of any certain tax committed to him, hath been lost or destroyed by accident, shall be and hereby are empowered to issue a new warrant to such Constable or Collector for collecting the same, which shall have the same force and effect as the original warrant. *ch. 116, s. 19.*

20. Assessors of towns, plantations, parishes and religious societies, shall not hereafter be made responsible for the assessment of any tax which they are by law required to assess; but the liability, if any, shall rest solely with said towns, &c.; and the Assessors shall be responsible only for their own personal faithfulness and integrity. *ch. 337, s. 1.*

C. Their power and duty in assessment of taxes for the support of the ministry; of schools; and of highways.

§ 1. The qualified voters of any town may grant and vote such sum or sums of money as they shall judge necessary for the settlement, maintenance and support of the ministry, schools, &c, to be assessed upon the polls and property within the same, as by law provided. *ch. 114, s. 6.*

2. For the purpose for which school districts are empowered to raise money, all lands, whether improved or unimproved, shall be taxed in the district in which they lie; and the Assessors of any town or plantation, shall assess in the same manner as town taxes are assessed on the polls and estates of the inhabitants composing any school district, in their town or plantation, and on lands lying within the same, belonging to persons not living therein, all moneys voted to be raised by the inhabitants of such district, for the purposes aforesaid, within thirty days* after the Clerk of the district

* Although Assessors are directed to assess the tax within thirty days after the certificate; yet there are no negative words restraining them from making the assessment afterwards; And accidents might happen which would defeat the authority, if it could not be exercised after the expiration of thirty days. The naming the time for the assessment must therefore, be considered as directory to the Assessors and not as a limitation of their authority. *3 Mass. Rep. 232.*

all have certified to said Assessors the sum voted by the said district, to be raised as aforesaid. *ch. 117, s. 9.**

3. And it shall be the duty of said Assessors to make a warrant in due form of law, directed to one of the Collectors of their town or plantation, requiring and empowering said Collector to levy and collect the tax, so assessed, and pay the same within a time limited by said warrant, to the Treasurer of the town or plantation, to whom a certificate of the assessment shall be made by the Assessors; and the money so collected and paid shall be at the disposal of the committee of the district, to be by them applied agreeably to the vote of their district as aforesaid. And such Collector in collecting such taxes shall have the same powers and be holden to proceed in the same manner, as is by law provided in collecting town taxes. *s. 9.*

4. And the Assessors of any town or plantation, shall have the same power to abate such district tax, as they have to abate a town or plantation tax. And the Assessors, Collector and Treasurer, shall be allowed by the school district the same compensation for assessing, collecting and paying any district tax as they are allowed by the town or plantation for similar services. *s. 10.*

5. Each town, at some public meeting of the inhabitants thereof, regularly notified and warned, shall vote and raise such sum of money, to be expended in labor and materials on the highways, as they shall determine necessary for the purpose. And the Assessors shall assess the same on the polls and ratable estate, personal and real, of the inhabitants, residents and non-residents of their town, as other town charges are by law assessed, and deliver to each surveyor a

A vote of moneys to be raised by a school district, pursuant to statute, may be certified to, and moneys assessed by, Assessors chosen after the vote. *ibid.*

Assessors may revoke an illegal assessment and warrant; make a new assessment; and issue a new warrant, without a second certificate.

Or, if assessment is made by succeeding Assessors, Clerk may issue second certificate; for upon reasonable cause he may legally issue such certificate; as, where the first is lost, or mislaid, or destroyed by accident before assessment, or the Assessors' term of office expires before carrying a vote into effect. *ibid.*

The power of fixing time of payment of moneys is not given to school districts, but to Assessors who are to limit it in their warrants.

School districts may, at any time before assessment, rescind a former vote for raising moneys, and Assessors, after regular notice, will have no authority to make the assessment. *ibid.*

* The district tax may be assessed upon the valuation of property taken in reference to the Town taxes for the same year. 5 Pick. 323.

list of the persons and the sums at which they are severally assessed for his limits. *ch. 118, s. 13.*

6. It shall be the duty of Assessors to make out and deliver to the respective surveyors of highways the several tax bills on or before the first day of June in each year. *ch. 21, 1832.*

7. The surveyor, at the expiration of his term, shall render to the assessors for the time being, a list of such persons as shall have been deficient, (if any such there be) in working out their highway rate, or otherwise paying him the sum assessed therefor; which deficient sums shall by the Assessors be put in a distinct column, in the next assessment for the town tax, and collected by the Constable or Collector thereof, as other town taxes are collected, and paid into the town treasury for the use of the town. *s. 13.*

8. Whenever a fine shall be imposed on any town or plantation by the Supreme Judicial Court, or Court of Common Pleas, for the repairing of any highway, the Clerk of such Court shall forthwith certify the same to the Assessors thereof; and it shall be the duty of such assessors, thereupon, to assess the same upon the polls and estates of such town, in the same manner as town taxes are assessed and to commit the same to the collector thereof, to be collected and paid to the agent appointed by the Court to superintend the collection and appropriation of such fine, at such time as said Court shall appoint; and the Clerk shall be authorized, on application of such agent, to issue a warrant or warrants, to enforce the collection of such fine, in the same manner as the Treasurer of the State is authorized to issue warrants, to enforce the collection of the State tax. *ch. 300, s. 4.*

If the Assessors of any such town or plantation shall neglect to make such assessment, and to certify the same to the Clerk of said Court, and such town or plantation shall not cause the highway to be repaired to the acceptance of the Agent, and pay the costs of prosecution to the Clerk, within four months, a warrant of distress may then be issued, for such fine or costs, or both, as the case may be, in the same manner as though this act had not passed. *s. 5.**

* The agent shall within three months make a return to the Court of the manner in which the same has been expended, which shall be put on file for the inspection of all persons interested; and if any agent shall neglect to appropriate the moneys paid him according to the directions of the Court, he shall pay double the amount, to be recovered by indictment, to the use of the town or plantation. *ch. 300. s. 6*

D.—Their power and duty in case of Constable or Collector's removal; insanity; incapacity through infirmity; arrest on Treasurer's warrant; failure to satisfy the same; and in case of decease.

§ 1. In case any Constable or Collector of any town, plantation, or parish, has removed, or is about to remove out of this State, and a new Constable or Collector shall be chosen, the Assessors shall make out a new warrant under their hands, in due form of law and shall deliver the warrant together with the same bill or bills to the person chosen as aforesaid, to collect and levy what shall be remaining due thereon. *ch. 116, s. 38.*

2. When any Constable or Collector of any town, plantation or parish who is already, or may hereafter become *non compos mentis*, and who hath, or may have a guardian duly appointed, or who hath already been, or may hereafter, by bodily infirmities, be rendered incapable of discharging the duties of his office, in the judgment of the Assessors, before such insane or infirm Constable or Collector hath perfected his collection, the Assessors shall thereupon procure and appoint in writing, under their hands, some suitable person a Collector, to perfect such collection, and grant him a warrant for that purpose; and the person so appointed shall have the same power and authority as were granted to such insane or infirm Constable or Collector: *Provided nevertheless*, That no person shall be appointed to complete the collection of such infirm Collector unless he shall request the same. *s. 40.*

3. *And provided further*, That when it shall appear to the Assessors, that such insane or infirm Constable or Collector shall have paid to the Treasurer or Treasurers, to whom he was accountable, a larger sum or sums of money than the amount of the moneys that he has collected from the persons borne on his list of assessment, the Assessors, in their warrant to the Collector by them appointed, shall direct him to pay such sum as shall appear to them to be overpaid as aforesaid, to the guardian of such insane Constable or Collector, or to such infirm Constable or Collector, as the case may be. *s. 40.*

4. And in the case aforesaid, and in case of the decease of any Constable or Collector of taxes, before his perfecting his collection, the Assessors for the time being shall have

power to demand and receive the list or lists of assessments of and from such infirm Constable or Collector, or from the guardian of such Constable or Collector as shall be *non compos mentis*, or from the executors or administrators of any deceased Constable or Collector, or of and from any person in whose hands the same may be, and to deliver the same to the Collector newly appointed. *ch. 116, s. 40.*

5. Whenever a Constable or Collector of any town, plantation or parish, shall be taken on execution by virtue of this Act,* it shall be lawful for the Assessors of such town, plantation or parish, for the time being, if they see fit, to demand and receive of the Constable or Collector, taken as aforesaid, a true copy of any or all the assessments which as Constable or Collector aforesaid, he had in his hands unsettled, at the time of being taken as aforesaid, with the whole evidence of all payments on the assessments demanded as aforesaid. *s. 48.*

6. In case the said Constable or Collector, taken as aforesaid, shall upon being demanded thereto, deliver up to the said Assessors, all the assessments which he as Constable or Collector as aforesaid, shall have in his hands unsettled, together with the whole evidence of all payments on the assessments demanded as aforesaid, then the said Constable or Collector shall receive such credit as the said Assessors, from an inspection of his assessments shall adjudge him entitled to; and the said Collector or Constable taken as aforesaid shall be holden for the payment for such sum or sums of money, as shall be found deficient, after being credited as aforesaid. *s. 48.*

7. The same town, plantation or parish may proceed to the choice of another Collector at any other time besides the annual meeting, in March or April, to finish the collections on the same assessments, who shall be sworn to the faithful discharge of his office; and the Assessors for the time being respectively, on receiving the assessment as aforesaid shall make and deliver to the same Collector, chosen and sworn as aforesaid, a warrant or warrants for finishing the collections last aforesaid in form prescribed, *with the necessary alterations*, and the same Collector shall proceed to finish such collections in the same manner as Constables or other Collectors are to proceed in collecting like species of rates or taxes.

8. If any Constable or Collector taken as aforesaid shall

*See Treasurers, C, (c)

or demand as aforesaid, refuse to exhibit and deliver up his assessments, with the evidence as aforesaid, he shall forthwith, either by the officer taking him as aforesaid, or by warrant from some Justice of the Peace, be committed to the common jail of the county, there to remain until he shall exhibit the same for the purpose aforesaid: And the Assessors of such town, plantation, or parish, are hereby empowered to take the duplicate or copies of the records of such assessments, if the same are recorded, and the same copies to deliver to the collector chosen as last aforesaid, who, having received the same and a warrant therefor, shall proceed to finish the collection of the rates and taxes in the same assessments mentioned, to the persons who did not pay the same to the Constable or Collector taken as aforesaid. *Ch. 116, s. 48.*

9. If any Constable or Collector, so failing as aforesaid, have no estate to be found whereon to make distress, and his person cannot be taken within the space of three months from the time a warrant of distress shall issue from the Treasurer of this State as aforesaid, or being taken and committed to jail, shall not within three months satisfy the same, in such case the town or plantation, whose Constable or Collector so fails of his duty, shall within three months from the expiration of the said three months first mentioned, make good to the Treasury the sum or sums due or owing he same from such deficient Constable or Collector, and the Assessors of such town or plantation, having notice in writing from the Treasurer of the failure of any Constable or Collector as aforesaid, shall forthwith thereupon, without any other or further warrant, assess the sum the said deficient Constable or Collector is deficient, upon the inhabitants and estates of such town or plantation in manner as the sum so committed to such deficient Constable or Collector was assessed, and commit the same to some other Constable or Collector with warrant to collect. *s. 43.*

10. And in default thereof the Treasurer of this State is directed and empowered to issue a warrant of distress, against such deficient Assessors for the whole sum which may remain due from such deficient Constable or Collector, which shall be executed in the same manner as is prescribed in this Act* for serving other warrants of distress, which may be issued by such Treasurer. *s. 43.*

11. In case any Constable or Collector of taxes cease before his perfecting the collection of any assessment com-

* See Treasurer, &c. *s. 43.*

mitted to him to collect and pay into the State Treasury, the Assessors for the time being of such town or plantation shall nominate and appoint, at the charge of such town or plantation, some other fit person or persons to perfect the same collection, and enable and empower such person or persons to collect the same by granting a warrant to him or them for that purpose. *ch. 116, s. 23.*

12. In case of the decease of any Constable or Collector in any town, plantation or parish, before his having adjusted the accounts of his assessments to him committed to collect, for such town, plantation or parish, the executors or administrators of such Constable or Collector shall, within two months after his decease, settle and make up accounts with the Assessors of the said town, plantation or parish, of such part of the assessment as was received and collected by the deceased Constable or Collector, in his life time, with which such executors or administrators shall be chargeable in like manner as the deceased Constable or Collector should be, if living. *s. 43.*

13. And such Assessors shall thereupon procure and appoint, in writing, some suitable person, a Collector to perfect such collection; and the person so appointed, is accordingly hereby empowered and required to execute all such powers as were granted to the deceased Constable or Collector. *ib.*

14. If the executors or administrators of any Constable or Collector so deceased, not having fully collected the assessment committed, shall fail of making up and settling the account of what was received by the deceased as aforesaid, before the expiration of the time aforesaid, such executors or administrators shall be chargeable with the whole sum committed to their testator or intestate, in case there be sufficient assets, in the same manner as the deceased Constable or Collector should be, if living. *ib.*

E.—Their agency in location of reserved lots.

Wherever in the grant of any township, or parts thereof heretofore made, or which may be made hereafter, there may be certain lots therein reserved for the use of said township and for public uses, and the lots so reserved as aforesaid, shall be located by the grantee or grantees of such township or part thereof by the time the said township

may be incorporated, it shall and may be lawful for the Justices of the C. C. Pleas within the county where such land lies, on application made to them by the Assessors of such town, or a major part of them, and no sufficient cause being shown to the contrary, to appoint a committee, by issuing their warrant under the seal of said Court, directed to three disinterested freeholders of said county, requiring them as soon as may be, to locate the several lots in said township reserved as aforesaid. *ch. 41, s. 1.*

F.—Penalties.

§ 1. If any Assessor, after being chosen and notified to take the oath of an Assessor in the way and manner other town officers are notified and summoned, shall neglect to appear, or appearing shall refuse to be sworn, he shall forfeit and pay the sum of fifteen dollars for the use of the town, to be recovered by their Treasurer, before the Court of Common Pleas for the county in which such town lies, by complaint: *Provided always*, That it shall be in the power of the Court of Common Pleas for the same county, upon reasonable excuse made to them by any Assessor that shall refuse to accept as aforesaid to remit, if they see cause, the penalty aforesaid. *ch. 116, s. 1.*

2. All Assessors chosen or appointed shall duly observe all such warrants as during the time of their office they shall receive from the Treasurer of this State, pursuant to any Act or Acts made and passed by the Legislature of this State, for the assessing and apportioning any rate or tax upon the inhabitants or estates within the town, whereof they are Assessors, on pain that the Assessors of any town failing of their duty required by such warrant of the Treasurer, shall forfeit and pay the full sum in such warrant mentioned, to be by them assessed to the use of the State, which shall be levied by distress and sale of the estates real and personal, of such deficient Assessors, by warrant from the Treasurer, directed to the Sheriff of the county, or his deputy, in which such town lies; and the Treasurer is hereby authorized and required in such case, *ex officio*, to issue his warrant requiring the Sheriff or his deputy to levy the said sums accordingly; and for want of estate to take the bodies of such deficient Assessors, and imprison them until they pay the same; which warrant the Sheriff or his deputy is hereby empowered and required to execute accordingly. *ch. 116, s. 5.*

G.—Forms.

§ 1. To the Justices of the Court of Common Pleas for the county of _____, to be held at _____ within and for the county aforesaid, on the _____ Tuesday of _____ next, complains A. B. Treasurer of the _____ of _____ that C. D. of [addition] on the _____ day of _____ last, was duly and legally chosen by the qualified voters of said _____ to serve as an Assessor thereof, and that the said C. D. was notified to take the oath of that office as the law directs; yet the said C. D. has for the space of seven days after being notified as aforesaid, neglected, and still neglects to take the said oath whereby he hath forfeited the sum of fifteen dollars for the use of the said _____; wherefore your complainant prays that a warrant of distress may be issued against the said C. D. for the forfeiture aforesaid, in form and manner as the law directs: Dated at _____ the _____ day of _____, Anno Domini, 18 _____.

A. B. Treasurer.

2. And the same form, *with the necessary alterations*, may be used in the recovery of any penalty which may be incurred by any person chosen as a town or plantation officer who shall neglect to take the oath of office as required by law. s. 1.

3. ss. To A. B. Constable or Collector of the town of A. within the county of S. _____ Greeting.

In the name of the State of Maine you are required to levy and collect of the several persons named in the list herewith committed unto you, each one his respective proportion therein set down, the sum total of such list, it being _____ this town's proportion of a tax or assessment of _____ dollars and _____ cents, granted and agreed upon by the Legislature of said State, at their session begun and held at A. _____ on the _____ day of _____ for defraying the necessary charges of securing, protecting and defending the same; and you are to transmit and pay in the same unto J. C. B. Treasurer of this State, or to his successor in that office, and to complete and make up an account of your collections of the whole sum, on or before the _____ day of _____ [and also including the further sum of _____ this town's proportion of a tax or assessment of _____ granted and agreed upon by the Legislature aforesaid, begun and held as aforesaid for defraying

he usual necessary charges of this county of _____, as apportioned by the County Commissioners at their session begun and held at _____ in and for said county, on _____ and you are to pay in the said sum of _____ unto C. R. Treasurer of said county or to his order, one moiety or half part thereof, on or before _____ next and the remainder of said sum on or before _____. Also including the further sum of _____ voted and raised by said town of O. at their annual meeting held on the _____ last past, for the support of schools, and of the poor and other current expenses, besides the further sums of _____ the overlappings; and _____ the highway deficiencies for the year _____ put in a distinct column _____; and you are to pay in the said sums of _____ and _____ unto A. G. Treasurer of said town or to his successor in that office, one half on or before, &c.] _____; and if any person shall refuse or neglect to pay _____ the sum he is assessed in the said list, to distrain the goods or chattels of such person to the value thereof; and the distress so taken, to keep for the space of four days, at the cost and charge of the owner; and if he shall not pay the sum so assessed within the said four days, then you are to sell at public vendue the distress so taken, for the payment thereof, with charges, notice of such sale being posted up in some place in the same town or plantation forty-eight hours next before the sale and expiration of the four days aforesaid: And the overplus arising by such sale, if any there be, besides the sum assessed, and the necessary charges of taking and keeping the distress, you are immediately to restore to the owner; and for want of goods or chattels, whereon to make distress for the space of twelve days, you are to take the body of such person, so refusing or neglecting, and him to commit unto the common jail of the county, there to remain until he pay the same, or such part thereof as shall not be abated by the Assessors for the time being, or the Court of Sessions for the said county. Given under our hands by virtue of a warrant from the Treasurer aforesaid, the County Commissioners, and by virtue of the office of Assessors of said O. this _____ day of _____ 18 _____.
A. B. }
C. D. } Assessors.

4. And the certificate of the assessment of any State tax shall be in substance as follows:

Pursuant to a warrant from the Treasurer of the State of Maine, dated the _____ day of _____ Anno Domini

, We have assessed the polls and estates of the
 of the sum of and have committed lists th
 to the of said , viz. to with war
 in due form of law, for collecting and paying in the
 to Treasurer of said State, or his successor in o
 on or before the day of next ensuing. In wi
 whereof, we have hereunto set our hands at
 day of Anno Domini . ch. 41, s. 1

A. B. } Assessors
 C. D. }

5. The warrant to be issued for collecting county,
 or plantation rates or assessments, shall also be made o
 the Assessors thereof, in the same tenor, *with the nece
 alterations.* s. 18.

STATE TAX.

Names of Persons taxed.	No. of Polls.	Poll Tax.		Tax on estate and income.		Total amount of tax.	
		Dolls.	Cents.	Dolls.	Cents.	Dolls.	Cents.

STATE TAX.

Names of Persons taxed, if known.	Number of each Lot, if known.	No. of Divisions or description of range, if known.	No. of acres.	Value.		Tax.		Amount of tax.	
				Doll.	Cts.	Doll.	Cts.	Doll.	Cts.

7. The inhabitants of the of B. and others liable to be assessed therein, are hereby notified to make and bring in to the undersigned, Assessors of said of B. true and perfect lists of their polls and of all their estates both real and personal (saving such as is by law exempted from taxation,) which they were possessed of [*or, if previously dated,* which they may be possessed of] on the day of 18

C. C. }
J. P. } Assessors.
E. R. }

If the days of their session are to be specially designated, the following words may be here inserted.

And for the purpose of receiving the same and proceeding therein, as by law required, the undersigned will be in session (at their office, or elsewhere, as the case may be) on the [insert the days] of .

8. To J. H. Collector of taxes for the town of B. Herewith are committed to you true lists of the assessments of the polls and estates of the persons therein named. You are to levy and collect the same, of each one his respective proportion, therein set down, of the sum total of Dollars, Cents, (being the amount of lists contained in pages,) according to the exigency of any lawful warrant, touching the same, to you committed.

Given under our hands this day of A. D. 18 .

C. C. }
J. P. } Assessors of
E. R. } said town.

9. To J. A. D. one of the Surveyors of Highways in the town of B.

Herewith are committed to you a list of the persons and the sums at which they are severally assessed for your limits, each one his respective proportion, therein set down, of the sum total of Dollars Cents, voted by said town, at their last annual meeting to be raised and expended in labor and materials on the highways therein; you are to allow (here insert the rates and prices the town shall affix to labor, oxen, horses, cart and plough) and in case of payment in money of the sums assessed, or any of them, you are to cause the sums thus paid to be carefully expended in labor and materials for repairing the highways in your

limits. You are to cause two thirds at least of the sum above voted, to be expended for the purposes aforesaid, before the first day of July next, and the remainder on or before the day of . * And you are hereby required at the expiration of said term to render to the Assessors of the said town, for the time being, a list of such persons as shall have been deficient (if any such there be) in working out their highway rate, or otherwise paying you the sum assessed therefor. Given under our hands this day of A. D. 18 .

C. C. } Assessors of
J. P. } said town.
E. R. }

10. To D. F. of , &c. Greeting.
Whereas A. B. was Collector of taxes for the of , and hath deceased before his having adjusted the accounts of his assessments to him committed to collect for said of , by the Assessors thereof, for the year ; and whereas upon settlement of such part of said assessments as were received and collected by said deceased in his lifetime, it appears that the sum of dollars cents yet remains to be collected;

Therefore, by virtue of the statute of this State, in such cases made and provided, we the Assessors of said do by these presents appoint you a collector to collect of the several persons named in the list herewith to you committed, each one his respective proportion, therein set down, of dollars cents yet remaining to be collected as aforesaid. And you are hereby empowered and required to execute all such powers as were legally granted to the said deceased Collector.

Given under our hands and seals this , day of A. D. 18 .

C. C. } Assessors, &c.
J. P. }
E. R. }

* If the whole amount of the tax, or a larger proportion than two thirds is to be expended before the first of July, the form should be varied accordingly.

The following points, relating to the duties of Assessors have been decided by the Supreme Court of Massachusetts:—

In assessing improved lands it is not necessary in the invoices or tax lists to specify the number of acres, but if the value of the lands be stated it is sufficient. 11 Mass. Rep. 477.

A distinction exists between an illegal or void assessment, and an assessment irregular or erroneous. This distinction is important as it regards the relations between Assessors and persons taxed, but principally on account of the serious mischiefs resulting to towns and other corporations from void assessments.

It may generally be stated that an assessment is not void for any proceedings where Assessors have *jurisdiction*.

It is important also to ascertain in what cases their office is ministerial and in what judicial. The determination of this point is frequently illustrative of the above distinction between illegal and erroneous assessments. A ministerial officer should strictly conform to his authority; a judicial office necessarily involves the exercise of discretion. The office of Assessors is mixed; being partly ministerial and partly judicial. The law relating to this subject will be found in the following extracts.

“As there is no statute provisions declaring an assessment in any case void, its nullity must result from the principles of the common law applicable to the case. Now when judicial officers, deriving their authority from the law, mistake or err in the execution of their authority, in a case clearly *within their jurisdiction*, which they have not exceeded; we know of no law declaring them to be trespassers *vi et armis*. The same law must apply to Assessors, as to inferior judicial officers.

“If therefore persons acting as Assessors have been *duly chosen* and *qualified* to execute that office; if the sum assessed has been *legally ordered to be assessed*; if the assessment be made, and the warrant of collection be issued by them, or a major part of them, in due form of law; and the poll and estate of the party complaining of the assessment be *legally taxable*: he cannot, in our opinion, maintain an action against them as trespassers *vi et armis*, for any mistake or error of theirs in the exercise of their discretion.”
Parsons C. J., 5 Mass. Rep. 559.

This decision necessarily involves in it the previous de-

termination that an assessment in such circumstances is not void.

"The office of an Assessor is rather ministerial than judicial; but there are many particulars, in which a sort of judicial discretion is permitted them. They are to exercise their judgment in stating the aggregate amount, upon which the assessment is to be apportioned, in determining the ratable property and the value of it, for which each individual is to be assessed. An assessment is *erroneous*, if property is omitted in the valuation, which ought to be assessed,—or an individual is charged by mistake, or even with bad intentions with property for which he is not liable. 10 *Mass. Rep.* 105.

"It is generally true that executive officers are not liable to actions for the regular execution of precepts apparently lawful, and which come from an authority, which has *jurisdiction over the subject*. But Assessors are not to be viewed in this light. They are not compellable to assess an illegal tax. They may exercise their judgment on the subjects, for which the money appears to be voted; and may refuse to cause the collection to be enforced, if they deem the tax illegal.

"If *part* of a tax is illegal, all proceedings to collect it must be void; as it is impossible to separate and distinguish so that the act should be in part a trespass and in part innocent." 13 *Mass. Rep.* 262, 263. 15 *Mass. Rep.* 147, *Stetson v. Kempton*.

"If Assessors proceed to collect an illegal tax they are liable in trespass." *ib.*

"Assessing more than five per cent. above the sums voted to be raised, makes the assessment illegal and void." *ib.*

For an error in judgment committed by Assessors, in omitting to assess some taxable estate, they are not answerable as trespassers with force and arms. *ib.*

Assessors may be punished for malfeasance in their office on information or indictment. 5 *Mass. Rep.* 559.

All taxes granted for parochial or municipal purposes for any one year, must be assessed by Assessors chosen for that year; and upon a valuation made for that year; and an assessment made by the Assessors, or upon a valuation of the preceding year, would be illegal and void. 18 *Mass. Rep.* 140.

Under *Stat.* 1821, *ch.* 116, *sec.* 1, the lists of assessment of taxes must be signed by the Assessors. The signing of the warrant, usually inserted at the end of the tax bill, is not

a sufficient compliance with the statute in this particular. 4
Greenleaf's Rep. 72.

Provisions of Tax Act, 1833.

1. SEC. 2. *Be it enacted*, That the Treasurer of this State shall forthwith send his warrant, directed to the Selectmen or Assessors, of each town, plantation or other place, taxed as aforesaid,* requiring them respectively, to assess the sum so charged, in manner following, viz :

2. To each male poll, above the age of twenty-one years, within their respective towns and plantations, seventeen cents, provided the same shall not exceed one sixth part of the whole sum to be assessed ; and if at seventeen cents on the poll, the poll tax shall exceed one sixth part of the sum to be assessed, the poll tax shall be so reduced as not to exceed one sixth part of such tax, but shall be made as nearly equal as may be, to said sixth part of the whole ; and if by the above rules, the proportion of the State, county and town, or plantation taxes, exclusive of highway taxes, to be paid by the polls, shall, in any town or plantation exceed two dollars on each poll, it shall be reduced so as to make that sum ; and the highway taxes in such town or plantation shall be assessed in the same proportion.

3. And the residue of such sum, charged as aforesaid, to each town, plantation or other place, respectively, to assess upon the respective inhabitants thereof, according to the value of the real estate therein owned or possessed by each of them, on the first day of May next, either in his own right, or the right of others, improved or not improved, (except pews in houses of public worship) : or upon the owners of real estate in such town, plantation or other place, whether such owner resides in the same or not, on the first day of May according to the just value thereof : and upon non-resident proprietors of real estates lying within such town, plantation or other place, in their own right or the right of others, improved or not improved.

4. And also on all the inhabitants of such town, plantation, or other place, and all other persons possessing estates within the same, on the first day of May, according to the proportion of the amount of their respective personal

* This refers to the 1st section, containing the schedule, which is omitted.

estates, including all moneys at interest, more than they pay interest for, and all debts due to them more than they are indebted for; moneys of all kinds on hand; public securities of all sorts; all bank stock and shares (or property) in any incorporated company for a bridge or turnpike road, or shares in any other incorporated company possessing taxable property, according to the just value thereof; and also the amount of all goods, wares and merchandize, or any stock in trade, including stock employed in manufactories not exempted by law; vessels of all kinds at home or abroad with all their stores and appurtenances; and all pleasure carriages, drawn by one or more horses; mules, horses and neat cattle, each of one year old and upwards, and swine six months old and upwards; and also the amount of the income of such inhabitants from any profession, employment, or by any annuity, or legacy, or other source, or gained by trading at sea or on land, and all other property of the several kinds, returned in the last valuation for the purpose of taxation; excepting sheep, to the number of not exceeding forty owned by any one person, household furniture, wearing apparel, farming utensils, tools of mechanics, necessary for carrying on their business, and also the machinery in cotton and woollen manufactories; but carding machines used for the purpose of carding rolls from sheep's wool, whether attached to such manufactories or not, shall not by this exception be considered as exempted from taxation.

5. SECT. 3. *Be it further enacted*, That every freeholder or tenant, who by virtue of this Act, may be assessed and shall pay any sum for real estate, in his possession, may require his landlord, the owner, or agent of such estate, to reimburse the half of such sum, unless it be otherwise provided for by an agreement between them.

6. And every owner of horses, mules or neat cattle, shall be taxed therefor, in the town, plantation or other place wherein he may be an inhabitant, on the first day of May, notwithstanding any of said creatures may have been sent to some other place for keeping, before that time.

7. SEC. 4. *Be it further enacted*, That the Treasurer in his said warrant shall require the said Selectmen or Assessors respectively, to make a fair list or lists of their assessments, setting forth in distinct columns against each person's name how much he or she is assessed for polls and for real and personal estate and income as aforesaid; dis-

tinguishing any sum assessed on such person as guardian,* or for any estate in his or her possession in trust, and also insert in such list the number of acres of unimproved land which they may have taxed on each non-resident proprietor of lands, and the value at which they may have estimated the same; and such list or lists, when completed and signed by them or the major part of them, to commit to the Collector or Collectors, Constable or Constables of such town, plantation or other places, respectively, with a warrant or warrants in due form of law requiring them to collect and pay the same to the said Treasurer on or before the first day of January, in the year of our Lord one thousand eight hundred and thirty-four, and also to return a certificate of the names of such Collector or Collectors, Constable or Constables, with the sum total which they may be so required to collect, to the said Treasurer some time before the first day of December next.

8. SEC. 5. *Be it further enacted*, That all goods, wares and merchandize or other stock in trade, including stock employed in manufactories, ships or vessels shall be taxed in the town, plantation or other place where they are sold, used or improved, notwithstanding the owner or owners may reside in some other place: *Provided*, Such person or persons do hire a shop, store or wharf in such town, plantation or other place, and not where they dwell or have their home; and they shall be respectively held to deliver, on oath or affirmation, if required, a list of their whole taxable estates to the Assessors of the town, plantation, or other place where they may dwell, on the said first day of May, distinguishing what part thereof is taxable elsewhere, and in default thereof they may be doomed by said Assessors. *Provided however*, That this clause shall in no case be so construed as to enable the Assessors of any town, plantation or other place, to assess an inhabitant of any other town, plantation or other place, for any other property charged thereon in the last valuation. *Provided also*, That logs, boards,

* A guardian of minors was taxed in manner following, viz.

"S. P. guardian of the children of P. P. deceased,
State tax, personal, 6 dollars, town and county, personal, 39 dollars."

It was contended that the personal property of minors was not taxable, and if taxable should not be assessed on the guardian personally.

But it was held that the property, personal and real of minors was liable to be assessed and that the taxes should be set to the guardian personally, distinguishing any sum assessed on any person as guardian, &c. as directed in tax act. 13 Mass. Rep. 496.

and lumber at sawmills shall not be taken to be stock employed in manufactories : *Provided however*, That all ships and vessels shall be liable to be taxed in the town, plantation, or other place, to which the same were charged in the valuation of this year, so long as the owner thereof shall remain an inhabitant of such town, plantation or other place, and shall own such property.

9. SEC. 6. *Be it further enacted*, That all property and estate belonging to any literary or charitable institution shall be exempted from assessment and taxation ; and no person shall be taxed in any town on account or by reason of his residing there as a student in any literary seminary ; and that Indians shall not be assessed and taxed for their polls and estates.

10. And if there be any persons, who by reason of their poverty, age or bodily infirmity, may be unable to contribute towards the public charges in the judgment of the said Assessors, they may exempt the polls and estates of such persons, or abate any part of the sum which they are assessed at, as the said Assessors may think just and equitable. And inhabitants of Islands on which there are no highways may be omitted in any highway tax, at the discretion of the town to which they belong.

11. SEC. 7. *Be it further enacted*, That the County Commissioners in their respective counties when duly authorized to assess a county tax, shall apportion the same on the several towns, plantations and other places therein, according to the proportion at which they are rated in this Act.

12. And in the assessment of all county, town, plantation, parish or society taxes, the Assessors of each town, parish, society, plantation or other place within this State, shall govern themselves by the same rules, and assess the polls therein in the proportion as they may be assessed, to pay a State tax by virtue of this Act, having regard to all such alterations of polls and property as may happen within the same, subsequent to the assessment of the tax made by this Act, excepting such parishes and societies, for which a different provision for assessing their taxes is made by law ; *Provided always*, That it shall be lawful for any town, parish, society or plantation to make, levy and collect any county, town, parish, society or plantation tax, according to a new valuation, and for that purpose to cause a new valuation to be taken therein, at any time of the year which may be determined upon at a legal meeting to be warned for that purpose.

13. Sec. 8. *Be it further enacted*, That Assessors shall make their several rate lists, to be committed to the Collectors or Constables, in such form, in substance, as shall be prescribed by the Treasurer of the State, when he transmits his warrants to the several towns and plantations as herein directed.

AUCTIONEERS.

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| §1. Selectmen to grant licenses. | 4. Not to sell their own goods at certain times. |
| 2. Remedy by appeal, on neglect or refusal of Selectmen. | 5. Act not to extend to Sheriffs, &c. |
| 3. Licensed persons to keep account of sales, employers and purchasers. | 6. Penalties how recovered and appropriated. |
| 4. Not to receive goods of servants or minors. | |

§ 1. The Selectmen or the major part of them, at a meeting had for that purpose, are hereby empowered, by a writing under their hands, to license for the term of one year, any suitable person or persons to make sale of any goods or chattels whatsoever, at public vendue or outcry; and the Selectmen are hereby directed to record every license, they may so grant, in a book to be by them kept for that purpose. *ch. 134, s. 1.*

2. On application in writing of any person to the Selectmen of any town in this State, to be licensed to sell goods or chattels at public vendue, if the Selectmen shall unreasonably neglect or refuse, after such application, to license such person or persons, applying as aforesaid, it shall and may be lawful for such applicant or applicants, first giving ten days notice to the Selectmen, so neglecting or refusing as aforesaid, to apply to the Court of Sessions* for the county where such applicant or applicants reside; which Court or a major part thereof, are hereby authorized and empowered, on hearing the parties, to license said applicant or applicants, if they shall adjudge the same just and reasonable: *Provided*, Such applicant give bonds to the Selectmen to pay all costs arising by the case being brought before the Court of Sessions. *s. 2.*

3. Every person thus licensed, shall keep a fair and particular account of all goods and chattels sold by him as aforesaid, of whom the same were received, and of the names of the persons to whom the same shall have been sold. *s. 3.*

4. If any person or persons, thus licensed, shall receive any goods for sale at public vendue or outcry, of any ser-

*Now County Commissioners.

D.—His power and duty as to records and authentication of copies in certain cases.

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| <p>§1. May record conveyances, or extents of pews and rights in houses of worship.</p> <p>2. Records of proprietors of common and undivided real estate, when to be kept by Clerks.</p> <p>1b. Power to authenticate copies.</p> | <p>3. Proprietors may recall records or cause Clerk to record proceedings.</p> <p>4. In certain cases, to record proprietors' proportion of general fences.</p> <p>5. Required to record power of Attorney from non-residents.</p> |
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E.—His power to administer oaths in certain cases.

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| <p>§1. To committees, appraisers or commissioners appointed by Judge of Probate.</p> <p>2. To officers chosen by proprietors of general fields.</p> | <p>3. To administer and certify oath, where person is assaulted by a dog.</p> |
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F.—Forms.

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| <p>§1. Oath.</p> <p>2. Publication of intentions of marriage.</p> <p>3. Certificate of publishing or posting up intentions of marriage.</p> <p>4. Notice to Clerk by finder of goods.</p> | <p>5. Clerk's warrant of appraisement.</p> <p>6. Certificate of oath of Commissioner appointed by Judge of Probate.</p> <p>7. Of oath against dogs.</p> <p>8. Certificate of oath of assault by dogs, or of their strolling abroad.</p> |
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G.—Fees.

A.—His choice, oath, and duty relative to town meetings, and the election of State, County, and Town Officers.

- § 1. The inhabitants qualified to vote in town affairs annually in the month of March or April, shall by a major vote, and by written ballots, choose a Clerk, who shall be under oath truly to record all votes passed, in such and other town meetings during the year, and until another Clerk shall be chosen and sworn in his stead, and also faithfully to discharge all the other duties of his said office; which oath may be administered by the Moderator of any town meeting, in case no Justice of the Peace be present. *ch. 114, s. 1, 4.*
2. The town Clerk or two of the Selectmen shall forth-

with make out a list of the names of all those who shall be then chosen into office, of whom an oath is by law required, and deliver the same to some Constable or Constables of the same town, together with a warrant to him or them directed, who is hereby required, within three days after receiving such warrant, to notify and summon each of the said persons to appear before the town Clerk, within seven days* from the time of such notice, to take the oath by law prescribed to the office, into which they are severally chosen; and every person who shall neglect to appear before the town Clerk, within the said seven days, and take the oath of office unto which he is chosen and summoned as aforesaid, unless such person is by law exempted from serving in the office, (which oath the town Clerk is hereby authorized to administer,) shall forfeit and pay to him or them that will inform or prosecute therefor the sum of five dollars, except those officers, for whose neglect a different penalty is provided, two-thirds for the use of the town, and the other third to the use of the prosecutor: *Provided always*, that any person who shall take the oath of office before a Justice of the peace, and file a certificate thereof with the town Clerk within the said ten days shall be exempted from the said fine.

s. 1.

3. The town Clerk shall make a record of such persons as shall from time to time be sworn into office before him, or of such as shall file certificates of their being sworn as aforesaid.† *ib.*

4. During the election of the Moderator of any town meeting, the town Clerk shall preside, and shall have all the powers and do all the duties, which the Moderator of a town meeting has and does perform. *ib.*

5. The town Clerk shall form a list of the persons voted for, at meetings for the choice of Representatives, with the number of votes for each person against his name, shall make a fair record thereof in the presence of the Selectmen, and in open town meeting. *Const. art. 4, p. 1, s. 5.*

* Where Assessors and Constables were sworn into office by the town Clerk, more than seven days after they were chosen, it was held sufficient; "the time specified being directory only, or respecting the right of the town to renew the appointment, and sue for the penalty to be recovered on refusal." 10 *Mass. Rep.* 113.

† A record by a town Clerk of an oath of office administered to a town officer by a Justice of the peace, is not legal evidence that such town officer was sworn, unless it appeared that the certificate of the Justice who administered the oath, was filed with the Clerk, from which the record was made. 5 *Mass. Rep.* 430.

6. A fair copy of the list of the persons voted for, with the number of votes for each person against his name, shall be attested by the Selectmen and town Clerk, and delivered by said Selectmen to each Representative to the Legislature, within ten days next after such election. *Const. art. 4, p. 1, s. 5.*

7. The Clerks of towns and plantations respectively shall seal up copies of such lists, and cause them to be delivered into the Secretary's office, twenty days at least before the first Wednesday in January annually. *ib.*

8. Whenever elections of Representatives shall be made pursuant to the provisions of the Constitution, in any towns and plantations classed into districts, it shall be the duty of the Selectmen of towns, and Assessors of plantations, in each district, to deliver to the persons so elected, certified copies of the lists of votes, within ten days after such election, or sooner if required by the person elected; but it shall not be necessary that the Clerks of such towns and plantations shall seal up copies of such lists or cause them to be delivered into the Secretary's office, twenty days at least before the first Wednesday of January annually. *ch. 222.*

9. But such Clerks shall make out and deliver to the person thus elected, certified copies of such lists, whenever requested by the person so elected. *ib.*

10. Fair copies of the list of votes for Senators shall be attested by the Selectmen and town Clerks of towns, and the Assessors and Clerks of plantations, and sealed up in open town and plantation meetings; and the town and plantation Clerks respectively shall cause the same to be delivered into the Secretary's office, thirty days at least before the first Wednesday in January. The votes for Governor shall be sealed and returned into the Secretary's office in the same manner, and at the same time, as those for Senators. *Const. art. 4, p. 2, s. 3. Art 5, p. 1, s. 3.*

11. There shall be chosen by ballot, in each county within this State, by such persons as are qualified to vote for Representatives, at the town and plantation meetings, on the second Monday of September, in the year of our Lord one thousand eight hundred and twenty-one, and every five years thence following some discreet and suitable person to be Register of Deeds. And the Selectmen of towns, and the Assessors of plantations, shall receive, sort and count the votes of the qualified electors present, and declare the same; and the town or plantation Clerk shall form a list of the persons voted for, with the number of votes for each person

against his name, and having recorded the same, shall transmit a certified copy of the record to the clerk of the Court of Sessions within the county, on or before the first day of the term of said Court next after the said month of September. *ch.* 98, s. 1.

There shall be annually chosen in each county within this State, on the second Monday of September, by the written votes of such persons as are by the Constitution qualified to vote for Representatives in the several towns and plantations, a discreet suitable person, being a freeholder and resident in the same county, for a county Treasurer; the votes to be counted and sorted in open town or plantation meeting by the Selectmen or Assessors thereof, and town and plantation Clerk; the names of the persons voted for, and the number each person had, shall be recorded by the Clerk in the town or plantation book, and an attested copy of such record shall be transmitted under seal to the Court of Sessions to be held within and for each county, next after the twentieth day of September annually. *ch.* 99, s. 1. *ch.* 289.

12. The Clerk of any town or plantation, Selectmen of any town, or Assessors of any plantation, in any Representative District within this State, who shall wilfully or negligently refuse or neglect to do and perform all or any of the duties prescribed to them by the Constitution of this State, shall forfeit and pay for each and every such offence a fine not exceeding two hundred dollars, nor less than thirty dollars: to be recovered by indictment in any Court proper to try the same, one half to the use of the State, and the other half to the use of the complainant. *ch.* 187.

B.—His duty relative to marriages, births and deaths.

§ 1. All persons desiring to be joined in marriage, shall have such their intentions published at three public religious meetings, on different days, at three days distance, exclusively at least, from each other, in the town or plantation wherein they respectively dwell; or shall have their intentions of marriage posted up by the Clerk of such town or plantation, fourteen days in some public place, within the same town or plantation, fairly written; and shall also produce to the Justice or Minister, who shall be desired to marry them, a certificate of such publishment, under the hand of the Clerk of such town or plantation respectively.

And where a male under twenty-one years, or a female under eighteen years of age, is to be married, the consent of the parent, or guardian, or other person, whose immediate care and government such party is under if within the State, shall be first had to such marriage. And in case the parties or either of them, live in a town or place, where there shall be no Clerk, then publishment shall be made in the town next adjoining, in manner aforesaid, and a certificate from the Clerk of the same town, of such publishment, shall be produced as aforesaid, previous to their marriage. *ch. 70, s. 5.*

2. If at any time the banns of matrimony betwixt any persons shall be forbidden, and the reasons thereof assigned, in writing, by the person so forbidding the same, left with the town or plantation Clerk, he shall forbear issuing a certificate as aforesaid, until the matter shall have been duly inquired into, and determined before two Justices of the same county quorum unus: *Provided*, The person forbidding the banns, shall within seven days after filing the reasons as aforesaid, apply unto two Justices as aforesaid, and procure their determination thereon: unless the said Justices shall certify unto the said Clerk, that a further time is necessary for their determination on the reasons filed; in which case the Clerk shall forbear issuing a certificate, until the time then certified to be necessary shall expire, unless the Justices shall sooner determine; according to whose determination, the Clerk shall govern himself herein. *s. 6.*

3. Every Justice and Minister shall make and keep a particular record of all marriages solemnized before them respectively; and in the month of April yearly and every year, shall make a return to the Clerk of the town or plantation in which he lives, certifying the names of all the persons, who have been by them respectively joined together in marriage within the year then last past. *s. 8.*

4. The Clerk or keeper of the records of the meeting wherein any marriages shall be had and solemnized among the people called Quakers or Friends, in the manner and form used and practised in their Societies, shall once a year make a certificate under his hand of all marriages had and solemnized in their society or meeting to which he belongs, and shall deliver the same to the Clerk of the town, in which the Clerk of said meeting resides; and if he shall neglect so to do, he shall forfeit the sum of fifty dollars, the *one half* to the use of the county, and the other half to the *use of the prosecutor*, to be recovered by an action of debt. *s. 9.*

5. It shall be the duty of every town Clerk within this State, to record all births and deaths which shall happen within his town and come to his knowledge, together with the time of such birth or death, and the names of his or her parents, if known, for the fees allowed by law, to be paid by his town. *ch. 136, s. 1.*

6. It shall be the duty of parents to give notice to the Clerk of the town in which they dwell, of all the births and deaths of their children; and it shall be the duty of every householder to give notice of every birth and death which may happen in his house; and of the eldest person next of kin to give such notice of the death of his kindred; and it shall be the duty of the master or keeper of any almshouse, workhouse or prison; and of the master or commander of any ship or vessel, to give notice of every birth and death which may happen in the house or vessel under his care or charge, to the Clerk of the town in which such event shall happen.* *s. 2.*

C.—His authority relative to lost money, or goods.

§ 1. Whoever shall find any money or goods lost of the value of one dollar and upwards, whereof the owner is unknown, the finder shall, within ten days next following, give notice thereof in writing, unto the Clerk of the town in which they are found. And the finder shall also cause a notification thereof to be posted up in some public place within the same town, and also shall cause the same to be publicly cried therein, on three several days: *Provided*, There shall be any public crier in said town; And if the money or goods so found be of the value of ten dollars or upwards, then to be cried as aforesaid, and notice thereof posted up in like manner in the same, and the two next adjoining towns, within one month next after such finding. *ch. 130, s. 1.*

2. Such finder of lost goods shall also within two months, and before any use thereof is made to its disadvantage, procure from the town Clerk, or a Justice of the Peace, a warrant directed to two such disinterested judicious persons as the Clerk or Justice shall appoint, returnable into the town Clerk's office in seven days from the date, to appraise and value the goods or stray beast, upon oath at the true value thereof in money, according to their best judgment. *s. 2.*

* The penalty for not giving notice in these cases is one dollar..

3. And if no owner appear within one year and a day next after such notice of the finding given to the town Clerk as aforesaid, then such lost money or goods, shall be and remain to the finder, he paying one half the value thereof, (all necessary charges being first deducted,) according to appraisement, unto the Treasurer of such town; who is authorized to sue for the same in an action of the case. But if the owner appear within one year and a day as aforesaid, and make out his right and title thereunto, he shall have restitution of the same, or the full value thereof, allowing and paying all necessary charges, to be liquidated and adjusted by some Justice of the Peace of the same county in case of disagreement between the owner and the finder. *ch. 130, s. 3.*

D.—His power and duty as to records and authentication of copies, in certain cases.

§ 1. All deeds and conveyances of, and executions extended on pews and rights in houses of public worship, may be recorded by the Clerk of the town or plantation wherein the same is situated; and being so recorded shall have the same effect in law, as if the same had been recorded in the registry of deeds. *ch. 36, s. 8.*

2. The last Clerk chosen by the proprietors of any common and undivided land, or other real estate, empowered by law to hold meetings and choose officers, shall continue in office notwithstanding final division until the same records shall be lodged with the Clerk of the town in which the land lies; and when the lands lie in several towns they may be lodged with the Clerk of such town, as the Court of Sessions, upon application to them made for that purpose, shall order and direct, and the Clerk with whom they may be lodged, and his successors in office shall be fully authorized to authenticate any copies therefrom, as from the records of the town of which he is Clerk. *ch. 43, s. 8.*

3. Where, after such final division of any lands or real estate, which have been, or shall have been held as a proprietary, the proprietors making such division have ordered and delivered or shall order and deliver the record of their proprietary into the custody of the town Clerk in which such land or other real estate, or part thereof, may lie; the proprietors who shall hold any meeting for the purpose before mentioned,

may recall the said record, and may cause the Clerk then appointed, and sworn, or the town Clerk to whom such records have been committed, to record all votes and proceedings which shall be had at any meeting as aforesaid, and copies of the same may be certified as by law is provided for certifying any other part of such record. *s. 9.*

4. When the proportion of each proprietor of a general field in a general fence is adjusted and determined, the same shall be entered upon record by the Clerk of the propriety; and where there is no such Clerk, by the Clerk of the town wherein the land lies, any law, usage or custom to the contrary notwithstanding. *ch. 44, s. 9.*

5. When any non-resident proprietor of any lands in any town or plantation within this State shall have authorized in writing any person residing or dwelling in any such town or plantation as his attorney to pay the taxes imposed upon such lands, and such written authority shall have been lodged with the Clerk of such town or plantation, such Clerk is hereby required to record the same upon application of such Attorney, and payment of twenty-five cents for filing or recording the same. *ch. 116, s. 32.**

E.—His power to administer oaths in certain cases.

§ 1. Every committee appointed to make division where real estate is to be divided among heirs or devisees, or dower is to be assigned; and the estate of the deceased is held in common and undivided with others, and the appraisers and commissioners appointed by the Judge to perform any service respecting the estate of any person deceased, or persons appointed to set off the widow's dower therein, and by law directed to be under oath, may be sworn before the Judge of Probate appointing them, or before some Justice of the Peace; and in case there shall be no Justice of the Peace in the town where such estate may lie, then before the town Clerk of such town; and a certificate of such oath shall be returned by such Justice or town Clerk, to the Probate office from which the warrant to such committee, appraisers or commissioners, shall have issued. *ch. 51, s. 34.*

2. Proprietors of general and common fields are em-

* He is also required to record the affidavit of the Collector, upon his request, that notice was given to such Attorney. *ch. 116, s. 32. See Collector of Taxes. D. (a) 2.*

powered to choose Assessors and Collectors who shall be under oath for the true and faithful performance of their services respectively which oath shall be administered to them as the law provides for swearing town officers. *ch. 44, s. 14.*

3. If any person shall be suddenly assaulted by any dog, while quietly and peaceably walking or riding any where out of the enclosure of the owner or keeper of such dog ; or if any dog shall hereafter be found strolling out of the enclosure or immediate care of its owner or keeper by day or by night, and the person so finding such dog, shall, at any time within forty-eight hours after such an assault, or the finding such dog strolling as aforesaid, make oath thereof before any Justice of the Peace for the county or Clerk of the town where the owner of such dog shall dwell (who are hereby empowered to administer said oath and to certify the same) and shall further swear, that he really suspects such dog to be a dangerous or mischievous dog, and shall give notice thereof to such owner or keeper, by delivering him a certificate of such oath, signed by such Justice or Clerk, it shall be the duty of the owner or keeper of such dog forthwith to kill or confine the same. *ch. 174, s. 3.*

F.—Forms.

Clerk's Oath.

§ 1. You swear that you will truly record all votes passed in this and other town meetings of the inhabitants of this town during the year and until another Clerk shall be chosen and sworn in your stead, and that you will faithfully discharge all the other duties of your said office. *So help you God.*

Publishment of intentions of Marriage.

2. Marriage is intended between C. H. of and M. N. of J. B. Town Clerk.

Certificate of publishing or posting up intentions of Marriage.

3. This certifies that the intentions of Marriage between Mr. S. R. of and Miss E. F. of have been entered in

the town Clerk's office days, and published in the town of
O. according to law. Dated at O. aforesaid the day of
18 .

J. B. Town Clerk.

Notice to Clerk by finder of goods.

4. To J. M. Clerk of the town of B.

I hereby give you notice that I did on , find in
said town (here insert the articles) the owner of which is
to me unknown. A. B.

Clerk's warrant of appraisement.

5. To J. A. and R. D. of Greeting.

(Seal.) You, being disinterested and judicious persons,
are hereby appointed and empowered to appraise and value
upon oath, at the true value thereof in money, according to
your best judgment (here describe the articles) found [if a
stray, add, and taken up] by C. D. of

Hereof take notice and make return of this warrant and
of your doings thereon, into the town Clerk's office of the
town of B. in seven days from the date hereof.

Given under my hand and seal this day of
18 .

J. M. } Clerk of said town of B.

NOTE.—The warrant may be issued by a Justice of the
Peace.

*Certificate of oath of Commissioners appointed by Judge of
Probate.*

6. To the Honorable B. P. Judge of Probate in and for
the county of

I, J. M. clerk of the town of , do hereby cer-
tify that C. D. of E. F. of &c. (commissioners,
appraisers, or commissioners, as the case may be) appointed
(insert the nature of the service to be performed) did on
at , personally appear and make oath that
they would faithfully and impartially discharge the trust and
perform the service to which they were appointed as afore-
said.

Given under my hand at B. aforesaid this day
of A. D. 18 .

J. M. Clerk of said town.

Form of an oath against mischievous dogs.

7. You swear that within forty-eight hours now last past, you were suddenly assaulted by a dog of which A. B. of C. is owner or keeper, while you were quietly and peaceably walking (or riding) without the enclosure of said owner or keeper [or as the case may be, you did find a dog owned or kept by A. B. of C. strolling out of the enclosure or immediate care of the said A. B.] and that you really suspect such dog to be a dangerous or mischievous dog. So help you God.

Certificate of oath of assault by dogs, or of their strolling abroad.

8. This may certify that A. B. of _____, did, on the _____ day of _____ make oath before me, that within forty-eight hours before that time, while peaceably walking [or riding] out of the enclosure of C. D. of _____ he the said A. B. was suddenly assaulted by a dog of which said C. D. is owner [or keeper]; and did further swear that he did really suspect such dog to be a dangerous or mischievous dog. Given under my hand this _____ day of _____ 18 _____

J. M. Clerk of the town of B.

G.—Fees.*

To the town Clerk for publishing the banns of matrimony, recording the same, giving a certificate of the publication and recording the marriage upon receiving the Justice's or Minister's certificate thereof—*fifty cents*; to be paid by the man published, on receiving a certificate of the publication. For recording births and deaths—*eight cents each*. For a certificate of a birth or death—*ten cents*. For administering an oath to persons appointed to appraise and divide real estates, together with certificates of the same—*twenty cents*. ch. 105, s. 1.

* For their liability for taking excessive fees, or for not specifying them when required, see Officers.

COLLECTORS OF TAXES.

A.—Choice of Collectors, and their authority by warrant; their bond; oath of office.

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| <ul style="list-style-type: none">§1. Choice by towns.ib. Authority by warrant.2. Bonds may be required.3. Residuary powers on choice of successors. | <ul style="list-style-type: none">4. New choice in case of removal.5. Their oath of office. |
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B.—Power, duty, and mode of process by distress;* power of arrest and commitment; authority to sue in certain cases.

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| <ul style="list-style-type: none">§1. Collector may distrain on non-payment.ib. Notification and mode of sale.ib. Overplus, if any, to be restored.2. May distrain shares in corporations.3. Officers of to grant certificates. | <ul style="list-style-type: none">4. When he may arrest and commit.5. When he may collect the whole of several instalments.6. Power of distress, or commitment, in case of removal.7. Restriction of powers in certain cases.8. May sue in cases of deace, removal or intermarriage. |
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C.—Their duty in relation to prison keeper when tax debtors are imprisoned.

Of the discharge of prisoners and the subsequent liability of their property.

In what cases Collectors are liable for taxes of discharged prisoners.

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| <ul style="list-style-type: none">§1. Officer to give copy of warrant to prison keeper.ib.—Pay for the same.2. Warrant, in such cases, to remain in force against property. | <ul style="list-style-type: none">2. Or, Collector or inhabitants, &c. may bring suit.3. Collector not discharged, unless prisoner committed within one year, or the tax is abated by town. |
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D.—Their power and duty in the collection of taxes assessed on real estate.

* For articles exempted from distress, see Constables.

- (a) Their duty to demand payment of authorized agent of non-residents, previous to advertisement for sale.

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| §1. Agent's authority to be in writing.
ib. To be recorded by Clerk.
ib. Fees for recording.
ib. Such agent to be notified and tax demanded. | 1. Proceedings to be suspended two months.
2. What shall be legal evidence of notice. |
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- (b) Proceedings relative to the collection of taxes on *improved* lands of non-residents living in the State.

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| §1. If taxes not paid in six months, officer may distrain or commit.
2. Or may bring suit.
3. Or may sell estate taxed.
ib. To sell undivided part in certain cases. | 3. Right of redemption.
4. Purchaser to account for net proceeds, if redeemed.
ib. Liability for waste.
5. Limitation of officer's authority. |
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- (c) Advertisement and sale of *unimproved* lands of non-residents; and of *improved* lands of non-residents living out of the State.

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| §1. Advertisement in the State paper where the owner is known.
2. Where the owner is not known.
3. The names of places, how designated.
ib. Advertisement to be posted.
ib. Advertisement in County paper. | 4. Proceedings at sale.
ib. Deed to be given, saving right of redemption.
ib. Limitation and terms of redemption.
5. Liability for waste.
6. Notice to be published three months prior to sale.
ib. To record and return his doings to Treasurer. |
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- (d) What shall be evidence of the posting notifications required for the sale of land by officers.

- E.—Their power to require aid in the execution of their office.

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| §1. May demand aid if impeded in collecting.
ib. Penalty for refusing aid, if necessary. | 2. May require aid in or out of their towns.
3. Penalty for refusing. |
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F.—Their duty to exhibit accounts to Selectmen or Assessors, and liability for neglect.

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| 1. Accounts and vouchers to be exhibited once in two months. | 2. Forfeiture for neglect—2½ per cent. on sum committed. |
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G.—Liability of Collectors refusing to deliver bills of assessments committed to them, in case of removal or being about to remove from the State.

Their liability where town or plantation held answerable for their default.

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| 1. Fine for refusing to deliver bills, on demand. | 2. Liability for damages assessed on inhabitants through Collector's default. |
| ib. Still liable for what due on bills. | |

H.—Proceedings where towns appoint their Treasurer a Collector of Taxes.

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| 1. Towns may appoint Treasurer Collector of Taxes. | 5. As to taxes not paid in agreeably to these provisions. |
| ib. Collector may appoint deputies. | 6. Collector may issue warrant of distress. |
| ib. Deputies to give bonds. | ib. Form thereof. |
| ib. Powers of Collector and deputies. | ib. When returnable. |
| 2. Assessors to deposit assessments and warrant with Treasurer. | ib. May distain immediately where probable loss. |
| ib. Mode of notification. | 7. Duty of officers to execute Collector's warrants. |
| 3. Town may agree upon abatements on payments by instalments. | ib. Fees. |
| 4. May agree upon the periods of abatements. | ib. Officer's duty previous to service. |
| ib. Mode of giving notice. | 8. Powers extended until collection completed. |
| | ib. Compensation of officer. |

I.—Mode of collecting taxes where no Constable or Collector is chosen.

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| 1. If no choice, Sheriff to collect. | 3. Mode of collection by Sheriff, &c. |
| ib. To have assessment and warrant. | ib. Fees, if tax paid in 30 days. |
| 2. As to deficient plantations. | ib. Power to distrain and commit in case. |
| ib. Of deficient Collectors therein. | ib. Aid may be required. |
| | ib. Fees for service and travel. |

K.—Fees.

may proceed to the choice of another Constable or Collector. And the Assessors shall make out a new warrant under their hands, in due form of law, and shall deliver the warrant together with the same bill or bills, to the person chosen as aforesaid, to collect and levy what shall be remaining due thereon, and the person so chosen is hereby vested with the same authority to levy and collect what shall then remain due on the same bill or bills, as the Constable or Collector was, to whom they were first committed. *ch. 116, s. 38.*

5. The oath to such as may be Collectors shall be in form following.

You J. H. being appointed a Collector of taxes within the _____ of _____, for one year next following, do swear, that you will levy and collect, with what speed you can, all such rates and assessments, for which you shall have sufficient warrants according to law, rendering an account thereof, and paying the same, according to the direction in your warrant. *So help you God. s. 25.*

B.—Power, duty, and mode of process by distress; power of arrest and commitment; authority to sue in certain cases.

§ 1. If any person shall refuse to pay the sum or sums which he shall be assessed as his proportion to any rate or tax in the list committed to any Constable or Collector, under the hands of the Assessors of such town or plantation, or the major part of them, upon demand thereof made by such Constable or Collector by virtue of the warrant to him given; it shall and may be lawful to and for such Constable or Collector, and he is hereby authorized and required in such case to distrain the person so refusing by his goods or chattels and the distress so taken to keep the space of four days at the cost and charge of the owner thereof; and if the owner do not pay the sum or sums of money so assessed on him, within the space of four days, then the said distress shall be openly sold at public auction, by the said officer for the payment of the said money, notice of such sale being posted up in some public place in the same town or plantation, forty-eight hours next before the sale and expiration of the four days aforesaid: and the overplus arising by such sale, if any, over and above the charge of taking and keeping the said distress, to be immediately re-

stored to the former owner with an account in writing, of the sale and charges. *ch. 116, s. 26.*

2. Whenever it shall be lawful for a Constable or Collector of taxes to distrain the goods or chattels of any person for the non-payment of taxes, he may distrain the share or shares of such person in any Bank, Turnpike, Bridge, Canal or other corporation: *Provided*, That in the seizure and sale of said property, the same proceedings shall be had, as are provided by law, when like property is taken and sold upon execution. *ch. 350, s. 1.*

3. The proper officer of such corporation, upon the request of such Constable or Collector, shall give a certificate of the shares or interest, such person shall have in such corporation, and therein express the numbers or other marks by which such shares are distinguished; and shall issue to the purchaser under such sale, such certificates, as by the by-laws of such corporation are the evidence of the shares or interest of a proprietor in such corporation. *s. 2.*

4. And if any person assessed as aforesaid, to the State or other tax, shall refuse or neglect to pay the sum or sums so assessed, by the space of twelve days after demand thereof and shall neglect to show the Constable or Collector sufficient goods or chattels, whereby the same may be levied, in every such case he may take the body of the person so refusing, and him commit unto the common jail of the county, there to remain until the same be paid, or he therefrom be discharged by due order of law; *Provided nevertheless*, That in all cases, where there are, in the opinion of the Assessors, or a major part of them, just grounds to fear that any person or persons, assessed as aforesaid, may abscond before the expiration of the said twelve days, in such case it shall be in the power of the Constable or Collector to demand immediate payment, and on refusal, to commit as aforesaid. *ch. 116, s. 26.*

5. When any State or other rate or tax shall be made payable at two or more several times or days of payment, and any person, being an inhabitant of any town or plantation within this State at the time of making such rate or tax and being assessed thereunto, shall be about to remove from thence before the time shall be prefixed for the payment of the same, it shall and may be lawful for the Constable or Collector of the same town or plantation, to demand and levy the whole sum which such person may be assessed in his list or lists, notwithstanding the time for collecting the second part of such rate or tax may not then have arrived.

and in default of payment to distrain for the same or to take such other course for the obtaining thereof, as is herein before provided. *ch. 116, s. 27.*

* 6. When any person shall remove from any town or place, where he lived or had his residence at the time of making the list of any State, town, county, plantation or parish tax or assessment, not having before paid the respective sum or sums set upon him by such lists, it shall and may be lawful for the Constable or Collector, to whom any such tax or assessment shall be committed, with a warrant to collect, and he is hereby authorized and empowered to demand the sum or sums assessed upon such person, in what town or place soever within this State, he may be found; and upon refusal or neglect to pay the same, to distrain the said person, by, his goods and chattels as aforesaid, and for want of such distress, to commit the party to the common jail of the county where he shall be found, there to remain until payment be made. *s. 28.*

7. Whenever a Constable or Collector of any town, plantation or parish, shall be taken on execution by virtue of this act,* and another Collector shall be chosen to finish the collection of assessments, the Collector chosen to finish the collections, on averment of payment by the person or persons assessed to the Constable or Collector taken as aforesaid, and denial of payment to the Collector for finishing the said collections, shall not proceed to distrain or imprison any person, unless a vote of such town, plantation, or parish is first had therefor, and certified to the same Collector by the Clerk of such town, plantation or parish. *s. 48.*

8. Where any person duly rated in any town, parish or plantation, hath died or shall die before the payment of the same rates, and where any person duly rated as aforesaid, hath removed or shall remove out of the town or plantation in which such person lived at the time such rates were or may be assessed, before the payment of such rates; and where any unmarried woman, being duly rated as aforesaid hath intermarried or shall intermarry before the payment of such rates; in all such cases, it shall and may be lawful for the Constables or Collectors of such town, parish or plantation, to sue for such rates, and they shall have the like remedy for the recovery thereof, as other creditors have for recovering their proper debts.† *s. 29.*

* See Treasurers, C. (c.)

† No action can be maintained to compel the payment of State, county or town taxes; except in the particular cases, in which an

C.—Their duty in relation to prison keeper when tax debtors are imprisoned.

Of the discharge of prisoners and the subsequent liability of their property.

In what cases Collectors are liable for taxes of discharged prisoners.

§ 1. When any officer appointed for collecting any rates or assessments by virtue of any warrant, shall for want of goods or chattels whereof to make distress, take the body of any person and commit him to prison, he shall give an attested copy of his warrant unto the keeper of the prison, and thereupon certify under his hand the sum such person is to pay as his proportion to the assessment, with the cost of taking and committing: and that for want of goods or chattels, whereon to make distress, he has taken his body; and such attested copy with the certificate thereon under the hand of the officer, shall be a sufficient warrant to require the prison keeper to receive and keep such person in custody until he shall pay his rate or assessment as aforesaid, and charges of imprisonment, with thirty-three cents for the copy of the warrant: *Provided nevertheless*, Any person committed to jail for his taxes, shall have the liberty of the jail yard, upon his procuring sufficient bonds as is by law directed for other debtors. *ch. 116, s. 52.*

2. All and every warrant for taxes as aforesaid, against such prisoners, shall, notwithstanding such discharge as aforesaid, be and remain good and effectual in law, to all intents and purposes against any estate whatsoever which may then or at any time afterwards belong to him or her (his wearing apparel and other articles not liable to be distrained for taxes, only excepted) and may be carried into execution for the satisfaction of such taxes, out of such estate, in such manner as might have been done in case the said prisoner had never been committed as aforesaid: Or the Constable or Collector, who shall make such commitment, or the inhabitants of the town or place where such tax was assessed, shall and may have a remedy therefor, by a suit or action, as for the proper debt of such Constable, Collector

tion is expressly given by statute. The same rule applies to taxes assessed by parishes. *6 Mass. Rep. 44.*

In actions by Collectors for amount of rates, they cannot recover interest thereon, which would be giving a bounty on their negligence. *See 9 Mass. Rep. 325.*—For power to sue for taxes on real estates or to *distrain and commit*, *See D. (b.) 1, 2.*

or inhabitants, any judgment to be recovered thereupon, to be satisfied only from the goods or estate of such poor person, who shall and may be relieved by this Act. *ch. 209, s. 25.*

3. When any person who shall be imprisoned for the non-payment of the proportion of any tax, shall be discharged from confinement by virtue of an Act, entitled "An Act for the relief of poor prisoners confined in jail for taxes"; the Collector or Constable making such imprisonment, shall not be discharged of the proportion which was due from such person, but shall be holden to pay the same unless such imprisonment shall be made within one year next after the commitment of such tax to such Collector or Constable, or unless the inhabitants of such town or place in legal town meeting, shall see fit to abate the same to such Collector or Constable. *ch. 116, s. 54.*

D.—Their power and duty in the collection of taxes assessed on real estate.

- (a) Their duty to demand payment of authorized agent of non-residents, previous to advertisement for sale.

§ 1. Where any non-resident proprietor of any lands in any town or plantation within this State, shall have authorized in writing, any person residing and dwelling in any such town or plantation as his attorney, to pay the taxes imposed upon such lands, and such written authority shall have been lodged with or recorded by the Clerk of such town or plantation, which such Clerk is hereby required to do upon application of such attorney, and payment of twenty-five cents for filing or recording the same; no Constable or Collector of taxes in any such town or plantation, shall proceed to advertise the sale of any lands of any such non-resident proprietors, for non-payment of any taxes, committed to them to collect, without first notifying and demanding payment of such tax of such attorney either personally or by written notice and demand left at his dwellinghouse, nor till after the expiration of two months from and after such notice. *ch. 116, s. 32.*

2. And in case such Collector shall have occasion, after said two months, to advertise such lands for sale upon neglect of payment of the taxes, his affidavit made before a

Justice of the Peace, and recorded by the Clerk of such town or plantation, (who is hereby required, upon request of such Constable or Collector, to record the same) before any sale be made, that such personal or written notice was given, and expressing the time of giving the same, shall be admitted as legal evidence thereof. *ch.* 116, *s.* 32.

(b) Proceedings relative to the collection of taxes on improved lands of non-residents living in the State.

§ 1. Where the owners of improved real estate living within this State, but not in the town in which such real estate lies, shall be taxed to any State, county or town taxes, and shall neglect for the space of six months after the same have been committed to an officer to collect, to pay and discharge the same, it shall and may be lawful for such officer to distrain such person by his goods or chattels, and for want of such goods to commit him to the common jail of the county where he shall be found. *ch.* 116, *s.* 31.

2. Or such officer may, after giving two months notice in writing to such owner, sue him for such taxes in an action of debt. *ib.*

3. Or such officer may after such notice as aforesaid, proceed to sell such real estate, or so much thereof as may be necessary to pay such taxes and charges of selling the same, conforming in all respects to the provisions contained in the thirtieth section of this Act.* And if the improved real estate taxed as above mentioned, shall consist of a saw mill, grist mill, mill factory, mill privilege, or other real estate which cannot be divided without prejudice to the whole, and where the whole of the same is not necessary to be sold to satisfy the taxes on the same, the officer, having such taxes to collect, may sell such undivided part of the same as may be sufficient to satisfy such taxes and charges of selling.— And the owner of any such improved real estate, so sold, shall have the same right of redemption, and on the same terms, as the owners of unimproved land sold for taxes are by law entitled. *ib.*

4. And the purchaser, in case of redemption by the owner, shall be obliged to account with such owner for the rents and profits of such real estate so sold, over and above the improvements made on, and taxes paid for the same; and

* For 30th section see next head (c).

shall also be liable to such owner for any strip or waste made on the same. *ch. 116, s. 31.*

5. No officer to whom any warrants for the collection of taxes may be committed, shall be authorized to sell any improved or unimproved land as mentioned in the thirtieth and thirty-first sections of this act, after the expiration of two years from the date of such warrants. *ib.*

(c) Advertisement and sale of *unimproved* lands of non-residents ; and of *improved* lands of non-residents living out of the State.

§ 1. Where no person appears to discharge the taxes on the unimproved lands of non-resident proprietors, or improved lands of proprietors, living out of the limits of this State, to the Collector thereof, he shall advertise in the public newspaper of the printer to the State for the time being, three weeks successively, the names of all such proprietors, where they are by him known, with the sum of the taxes assessed on their lands respectively, and also the time and place of sale. *ch. 116, s. 30.*

2. And where they are not known, he shall, in the same manner, publish the sum of the taxes on the several rights, numbers of lots or divisions. *ib.*

3. And where the name of the place in which such lands lie may have been altered by any act three years next preceding such advertisement, he shall express not the present name, but the name by which the same was last known, and in either case shall post the same in some convenient and conspicuous place in the same town or plantation, as the case may be, where the said lands lie, for the term of three weeks previous to the time appointed for such sale ; and also advertise the same in one of the newspapers printed in the county where said lands lie, or in the next adjoining county, if any such there be, for three weeks successively, previous to the time of sale. *ib.*

4. And if no person shall appear thereupon to discharge the said taxes and all necessary intervening charges, then the Collector aforesaid shall proceed to sell at public auction to the highest bidder, (after waiting two hours from the time appointed for said sale,) so much only of the said lands as shall be sufficient to discharge said taxes, and the necessary

intervening charges, having first given notice of the intended sale thereof, and the time and place when and where the same will be made as aforesaid; and shall have power to adjourn from day to day (if necessary) to complete the said sale, not to exceed three days, (waiting as aforesaid) and shall give and execute a deed or deeds, to the purchaser or purchasers, his or their heirs and assigns, expressing therein the cause of such sale; and saving to the aforesaid proprietor or proprietors, the right of redemption of any lands so sold within any time for the space of two years* from the time of such sale. *ch. 116, s. 30.*

5. *Provided nevertheless*, That the purchaser or purchasers aforesaid, shall not make any strip or waste on the premises, until the time of redemption shall have expired; and if the said purchaser or purchasers shall make any strip or waste on the premises as aforesaid, he or they shall be liable to pay all damages to the original owner or owners, in as full and ample a manner as if he or they had not purchased the same.† *ib.*

6. The notice of sale required by the thirtieth section of the Act concerning the assessment and collection of taxes to be published in the public newspapers three weeks successively, shall be so published three months prior to the time of such sale. And it shall be the duty of the Collector to record and return to the Treasurer of the same town or plantation, for which such Collector is chosen his particular doings in the sale of unimproved lands of non-resident proprietors, or improved lands of proprietors living out of

* *On the unimproved lands of non-resident proprietors, or improved lands of proprietors living out of the State, are a lien on the land only, and not a personal charge; in such case the Collector ought to proceed against the land in the way pointed out in the statute. See 1 Mass. Rep. 48.*

† In all cases, where the purchaser of any land sold for taxes shall not live, or shall remove from the town in which such land is situated, it shall be lawful for the proprietor or owner of such land to deposit with the Treasurer of such town or plantation the sum required by law to redeem the land thus sold; and thereupon such sale shall become void and the purchaser shall be held to execute to the proprietor a deed of release of the same. And said Treasurer's receipt or certificate of the payment to him of a sufficient sum to redeem the lands of any non-resident proprietor, so sold, shall be sufficient evidence of such payment and redemption. And such Treasurer shall be held to pay over to such purchaser on demand, the sum deposited with him as aforesaid. And the proprietor, making such payment, shall also pay such Treasurer fifty cents for his trouble. *ch. 337, s. 8.*

the State, for the taxes thereon, within thirty days after the sale thereof, as aforesaid.* *ch. 337, s. 8.*

(d) What shall be evidence of the posting notifications required for the sale of land by officers.

The affidavit of any disinterested person taken before a Justice of the Peace, of the posting notifications required for the sale of any land which shall be sold by any Sheriff, Constable or Collector in the execution of his office, may be used in evidence of the fact of notice upon any trial of the validity of such sale: *Provided*, That such affidavit, made on one of the original advertisements, or on a copy of one of them, shall be filed and recorded in the Registry of Deeds of the county or district where the land lies, within six months. *ch. 116, s. 62.*

E.—Their power to require aid in the execution of their office.

§ 1. If any of the Collectors of the State, county, town or parish rates and taxes, when in the execution of their of-

* By an additional Act, March 12, 1831, when any real estate shall be sold by any Collector of taxes, by virtue of the acts, to which this is additional, the owner or proprietor, or his heirs or assigns, shall have the right of redeeming the same at any time within ~~five~~ years from the time of such sale, on paying the sum, for which ~~the same~~ was sold, and all such necessary intervening charges, and also all such ~~sums~~ as the purchaser, his heirs or assigns may have paid for taxes assessed on said real estate, after such sale, with interest on said several sums at the rate of twelve per cent. per annum: *Provided*, That when the owner shall be within the age of twenty-one, feme covert, non compos, or without the limits of the United States, he may redeem such real estate at any time within eight years from the time of such sale. *ch. 501, s. 1.*

Another Act, passed March 23, 1838, provides, that when any real estate shall hereafter be sold according to the provision of the first section of an Act to which this is additional, the owner or proprietor of such real estate or his heirs or assigns shall have the right of redeeming the same at any time within two years from the time of such sale, by paying as is required in the Act to which this is additional and not afterwards: *Provided*, that when the owner of such real estate shall at the time of such sale be within the age of twenty-one years, feme-covert, non compos, or without the limits of the United States he or she may redeem such real estate at any time within four years from the time of such sale. *ch. 350, s. 1.*

e, shall be hindered or impeded in collecting the rates and taxes committed to them, it shall be lawful for such Collectors to require some meet person or persons to aid and assist them therein; and all persons so required, who shall refuse their aid and assistance, shall severally pay a fine to the town or plantation where the offence may arise, not exceeding six dollars, at the discretion of the Justice before whom the conviction may be had, by complaint or formation in writing, according to the circumstances of the offence: *Provided*, That it appears to the Justice, that the aid so demanded as aforesaid, was necessary; and on default of payment of the fine imposed, the Justice may order the offender to be committed to the common jail of the county for the space of forty-eight hours. *ch. 116, s. 33.*

2. When and so often as any Constable or Collector of public taxes, shall have any list of assessment to him committed, in which list shall be named and legally assessed in any sum or sums, any person or persons not inhabitants of the town or plantation to which such Constable or Collector belongs; in every such case it shall and may be lawful for any such Constable or Collector to require and command any person or persons within the limits of their respective towns or plantations, to assist such Constable or Collector in the collection of the taxes assessed as aforesaid, on any of the inhabitants of any such adjacent lands; and such Constable or Collector may, and hereby is also fully authorized to require and command any of the inhabitants of the aforesaid lands adjacent, to assist him in collecting any such assessment as aforesaid. *s. 34.*

3. If any person or persons, when thereunto required, shall refuse or neglect to aid and assist any Constable or Collector requiring such aid, he or they so refusing or neglecting, shall be and hereby are made liable to and shall pay the same penalties, to be recovered and disposed of in the same manner, as is provided in case of refusing to assist Constables or Collectors when thereto required, within the limits of their respective towns. *s. 35.*

F.—Their duty to exhibit accounts to Selectmen or Assessors, and liability for neglect.

§ 1. *The several Collectors of public taxes shall once every two months, at least, exhibit to the Selectmen and*

where there are no Selectmen to the Assessors of the respective towns or plantations to which they belong, a just and true account of all the moneys they have received on the several taxes committed to them, and produce the Treasurer's receipts for all the moneys by them respectively paid into the Treasury. *ch. 116, s. 36.*

2. If any Collector of public taxes shall neglect to exhibit his accounts in manner aforesaid, he shall forfeit and pay for every neglect, the sum of two and a half per cent. on the sum or sums committed to him to collect, to the use of the town or plantation of which he is or has been a Collector, to be recovered by such town or plantation in any Court of law proper to try the same. *s. 37.*

G.—Liability of Collectors refusing to deliver bills of assessments committed to them, in case of removal or being about to remove from the State.*
Their liability where town or plantation held answerable for their default.

§ 1. Where any Constable or Collector in any town, plantation or parish, having any rates or assessments committed to him to collect, has removed, or is about to remove out of this State, before the time set to make payment to Treasurers, or the time of payment be elapsed, and the Treasurer or Treasurers has thereupon issued his or their warrant or warrants; a town, plantation, or parish meeting may be called, and a person or persons appointed to settle with such Constable or Collector and demand and receive his rate bill or bills :† And if the Constable or Collector so removing or intending to remove himself out of this State, shall refuse to deliver the bill or bills of rates or assessments committed to him to collect, and all moneys collected by him thereon and remaining in his hands, when demanded by the Assessors or Selectmen or the major part of them as aforesaid, to deliver the same, he shall pay a fine of two hundred dollars to the use of the town, plantation or parish of which he was Constable or Collector, to be recovered by such

* For proceedings in case of a Collector's insanity, infirmity, or decease, see Assessors, D.

† For liability of Collector, when taken on execution, refusing to deliver up assessments, see p. 20, sec. 8.

town, plantation or parish, in any action of debt to be brought in any Court of law proper to try the same, and shall remain liable to pay what shall remain due upon the bill or bills committed to him to collect, as is provided by this Act. *ch.* 116, *s.* 38, 39.

2. Any Constable or Collector failing of his duty, for whose default the town or plantation is answerable,* shall, at all times afterwards, be liable to the action or suit of the inhabitants, in their corporate capacity, for all such sum and sums as were assessed upon the same through his defect, and for other damages occurring to them thereby. *s.* 43.

H.—Proceedings where towns appoint their Treasurer a Collector of Taxes.

§ 1. It may be lawful for the inhabitants of any town within this State at their meeting in the month of March or April annually, to appoint their Treasurer a Collector of taxes in their said towns; and the Treasurer so appointed shall be and he hereby is empowered to substitute and appoint under him such number of deputies or assistants, as may be necessary; which deputies or assistants, so appointed, shall give bonds for the faithful discharge of their duty, in such sums, and with such sureties, as the Selectmen of such town shall think proper; and the said Collector and his deputies shall have the same powers as are vested in Collectors of taxes chosen for that purpose. *ch.* 116, *s.* 56.

2. The Assessors of any town, which shall at their annual meeting, regulate the collection of their taxes, agreeably to the provisions of this Act, shall assess their taxes in due form, and deposit the same in the hands of the Treasurer for collection, together with a warrant for that purpose, after he shall have been duly qualified, together with his deputy or deputies; and at the same time shall post up notifications thereof, together with a copy of the fifty-seventh section of this Act, in one or more public places within said town. *s.* 59.

3. “*SEC. 57.* All such inhabitants of the said towns, who shall voluntarily pay the said Collector or his deputy within thirty days next after the delivery of their tax bills,

* If a Collector is negligent in levying and paying State taxes, the Treasurer may issue a warrant and levy it on the Collector's estate, and for want thereof commit him to prison. *ch.* 116, *s.* 41, 42.

the amount of their respective taxes, shall be entitled to an abatement of such sum as said town at their annual meeting may agree upon, on the amount of their said taxes : and such inhabitants as shall voluntarily pay their taxes to the said Collector or his deputy within sixty days after the delivery of their tax bills, shall be entitled to an abatement of such sum as may be agreed upon as aforesaid, on the amount of their said taxes : and all such inhabitants as shall voluntarily pay to the said Collector or his deputy, within one hundred and twenty days after the delivery of their tax bills, shall be entitled to an abatement on the amount of their said taxes, of such sum as may be agreed upon as aforesaid.”*

4. Any town, plantation or religious society, that shall appoint their Treasurer Collector of taxes, may at any meeting at which they shall vote to raise any tax, agree, not only upon the abatements to be made to persons who shall voluntarily pay their taxes to the Collector at certain periods ; but likewise the periods at which any person by so paying his taxes may be entitled to such abatement. And a notification of such vote posted up in one or more public places within said town, shall be sufficient, instead of posting up a copy of the fifty-seventh section of the act to which this is in addition : And where any town or other corporation shall not agree upon any abatements to be made as aforesaid, it shall not be necessary to post up a copy of said fifty-seventh section as prescribed in said act. *ch. 337, s. 5.*

5. All such taxes as shall not have been paid in agreeably to the provisions of the fifty-seventh section of this Act, shall and may be collected by the Collector or his deputy, or deputies, agreeably to the other provisions of this Act. *s. 58.*

6. It may be lawful for any town Treasurer who may also have been chosen a Collector as well as Treasurer, as is provided for in this Act, to issue his warrant to the Sheriff of the county, or his deputy or to any Constable of the same town, directing them to distrain the person or property of any person or persons, who may be delinquent in the payment of taxes after the expiration of the time fixed for the payment thereof by any vote of such town ; which warrants shall be of the same tenor with the warrant prescribed to be issued by Selectmen or Assessors for the collecting or

* By statute of Feb. 22, 1825, Parishes may appoint their Treasurers Collectors of taxes, with the same power as Treasurers of towns ; and may authorize abatements in the same manner as towns.

gathering in of the State rates or assessments, *with necessary alterations*. And the said officers shall make a return of their warrants with their doings thereon to the said Treasurer and Collector within thirty days from the date thereof: *Provided however*, That nothing in this Act shall prevent the said Treasurer and Collector whenever there may be a probability of losing a tax, from distraining the person or property of any individual, before the expiration of the time fixed by the votes of said town. *ch. 116, s. 60.*

7. It shall be the duty of said officers to execute all warrants they may receive from said Treasurer and Collector, pursue the same process in distraining the persons or property of delinquents, as Collectors of taxes are authorized to do and perform; and for collecting the sum of money due on said warrant, receive the fees that are allowed by law for levying executions in personal actions: *Provided however*, Before the said officers shall serve any warrant, they shall deliver to the delinquent, or leave at his or her usual place of abode a summons from said Treasurer and Collector, stating the amount due, and that unless the same is paid within ten days from the time of leaving said summons, into the town Treasury with twenty cents for said summons, his or her property will be distrained according to law. *s. 61.*

8. All the powers granted to Treasurers who are appointed Collectors of taxes shall be extended till the collection of any tax, that shall have been committed to them, shall be completed, notwithstanding that the year for which they shall have been appointed shall have previously elapsed. And any such Treasurer may allow, as a compensation to the officer who shall leave any summons as prescribed in the sixty-first section of an act to which this is in addition, the twenty cents prescribed by said act to be paid into the treasury for every such summons or such reasonable part thereof as shall be agreed upon between such Treasurer and officer. *ch. 337, s. 6.*

I.—Mode of collecting taxes where no Constable or Collector is chosen.

§ 1. Where any town shall neglect to choose a Constable or Collector, or if any plantation shall neglect to choose a Collector to gather the rates or taxes granted by the Legis-

lature, in such case, the Sheriff of the county, or his deputy, shall be and hereby is empowered and directed to collect such rates or taxes, having received an assessment made of the proportion of the several persons ratable in such town or plantation, together with a warrant under the hands of such Assessors as shall be appointed by the Court of Sessions in the county where such deficient town or plantation lies, or under the hands of the Assessors of such town or plantation duly chosen by them respectively. *ch. 116, s. 49.*

2. If any of the plantations aforesaid shall neglect to choose Constables or Collectors as aforesaid, or if the Constables or Collectors chosen by any such plantation and accepting such trust, shall be remiss, or neglect their duty, in every such case, such plantation shall be proceeded with in the same manner as by this Act is provided in the case of deficient towns,* and such deficient Constables or Collectors shall be, and hereby are made liable to the same penalties, to be recovered by the same process as by this Act is provided in the case of deficient Constables or Collectors chosen by towns. *s. 50.*

3. The Sheriff or his deputy, upon the receiving such assessment and warrant for collecting it, shall forthwith post in some public place of the town or plantation assessed, an attested copy of such assessment and warrant, and shall make no distress for any of the sums so assessed till after thirty days from his posting it up; and any person or persons paying the sum or sums respectively assessed on him or them to the Sheriff, before the expiration of the aforesaid thirty days, shall pay at the rate of five per centum over and above the sum assessed to the Sheriff for his fees, and no more; but all such as shall neglect to pay the sum or sums assessed, beyond the thirty days, after posting up the copy of the assessment as aforesaid, shall be proceeded against by the Sheriff by way of distress or commitment to jail in the manner Collectors are by this Act directed and empowered to distrain or commit to jail; and the said Sheriff or his deputy, may require suitable aid for that purpose and they shall each one pay the fees for the Sheriff's service and travel as in other cases where distress is made on the person committed. *ch. 116, s. 51.*

* See p. 21, s. 9.

K.—Fees.

In case of distress or commitment for the non-payment of taxes, the officer concerned therein, shall be entitled to the same fees which sheriffs* by law are, or may be entitled to for levying executions; saving that the travel in case of distress, shall be computed only from the dwelling-house of the officer making such distress, to the place where the distress may be made. *ch. 116, s. 55.*

For copy of warrant on commitment, 33 cents.

For compensation for their general duty, see *p. 54, s. 1.*

L.—Forms.

Collector's Bond.

§ 1. Know all men by these presents, that we, A. B., of the town of B., in the county of , and the State of Maine, [addition] as principal, and C. D., of , [addition] and D. E., of , [addition] as sureties, are held and firmly bound and obliged, to the inhabitants of said town of B., in the sum of dolls. cents to be paid to the said inhabitants; to which payment well and truly to be made we do hereby bind ourselves and each of us by himself, our and each of our heirs, executors and administrators, firmly, by these presents. Sealed with our seals. Dated the day of , in the year of our Lord, one thousand eight hundred and .

The condition of this obligation is such, that whereas the said A. B. was duly chosen and appointed on the day of , to the office of Collector of taxes, within said town of B. for the year next ensuing from said day of , and fully to be complete and ended:

Now if the said A. B. as Collector aforesaid, shall, during the year aforesaid, faithfully collect all such rates and taxes as shall be lawfully assessed on the polls and estates of said town of B. committed to him to collect; and shall faithfully serve and execute all warrants for the collection of such rates and taxes so committed to him for collection when issued by the proper authority; and shall pay over all the money so collected on the several taxes so committed to him, agreeably to the directions of such warrants therein

*See Constables, M.

mentioned and expressed, and shall faithfully discharge his duty as Collector as aforesaid, then this obligation shall be void; otherwise the same shall remain in full force and virtue.

*Signed, sealed and delivered
in presence of*

} A. B. (SEAL.)
C. D. (SEAL.)
E. F. (SEAL.)

Advertisement of taxes on unimproved lands of non-resident proprietors, or improved lands of proprietors, &c.

Collector's Notice, — W.

2. Notice is hereby given to the non-resident proprietor and owners of lands in the town of W. in the county of F and State of Maine, [if the name of the place has been altered within three years next preceding the advertisement, add lately called], that the same are taxed for the year 18 , for State, County, and Town, [and if so, School District] taxes, [and deficiency of highway taxes returned for the year 18], in the bills committed to the undersigned Collector of said W. by the town assessors, and remain unpaid as follows:

Owner's name.	No. of lots.	No. acres.	Value.	Tax. \$ c.	Deficiency Highway.	Total tax.
A. B.						
C. D.						
Unknown.						

The said Collector will proceed according to law to sell at public auction, to the highest bidder, at (describe the place of sale) at of the clock, in the noon, on the day of next, so much of the said lands as shall be sufficient to discharge said taxes and the necessary intervening charges, if no person shall appear on or before the time to discharge said taxes and charges.

W. June 8, 18 .

J. H. Collector.

Deed by Collector, on the sale of unimproved lands, &c.

3. To all persons to whom these presents shall come.
Whereas the Assessors of the town of B. in the county of , and State of Maine, for the year , legally chosen and sworn, did commit to me, J. H. Collector

taxes within said town for the year aforesaid, their list of assessments to collect, in which the lot of land in said town No. , (or the lot of land in the division of lots in said town, numbered , belonging to A. B. of C , or, belonging to some non-resident proprietor not by me known, or, belonging to D. E. now living out of the limits of said State, (as the case may be) was assessed in the sum of and whereas no person did duly appear to discharge said tax, although I advertised and posted the same in [*here name the papers, and the place where posted,*] as the law directs :

Therefore, know ye, that I, the said J. H. Collector as aforesaid, by virtue of the statute in such cases provided, and in consideration of , to me paid for discharging said taxes and necessary intervening charges, by W. R. of , in said county, have granted, bargained, and sold, and by these presents do grant, bargain, sell and convey to the said W. R. his heirs and assigns forever [*here describe the premises sold.*]

The same having been struck off to the said W. R., he being the highest bidder therefor, at a public auction legally notified, begun and held at (describe the place) in said , on the day of last.

To have and to hold the same, to the said W. R. his heirs and assigns forever, to his and their only proper use and behoof forever; saving however to the proprietor or proprietors the right of redemption of said lands, within any time for the space of two years from , the time of said sale. And I do covenant with the said W. R. his heirs and assigns, that the taxes aforesaid were legally advertised and posted by me, and that I have in all respects observed the directions of the law, in regard to the premises, and that I have good right to sell and convey the same to the said W. R. to hold as aforesaid.

In witness whereof, I do hereunto set my hand and seal this day of , in the year of our Lord eighteen hundred and J. H. (Seal.)

Signed, sealed and delivered
in presence of us.

S. R.
T. W.

lature, in such case, the Sheriff of the county, or his deputy, shall be and hereby is empowered and directed to collect such rates or taxes, having received an assessment made of the proportion of the several persons ratable in such town or plantation, together with a warrant under the hands of such Assessors as shall be appointed by the Court of Sessions in the county where such deficient town or plantation lies, or under the hands of the Assessors of such town or plantation duly chosen by them respectively. *ch. 116, s. 49.*

2. If any of the plantations aforesaid shall neglect to choose Constables or Collectors as aforesaid, or if the Constables or Collectors chosen by any such plantation and accepting such trust, shall be remiss, or neglect their duty, in every such case, such plantation shall be proceeded with in the same manner as by this Act is provided in the case of deficient towns,* and such deficient Constables or Collectors shall be, and hereby are made liable to the same penalties, to be recovered by the same process as by this Act is provided in the case of deficient Constables or Collectors chosen by towns. *s. 50.*

3. The Sheriff or his deputy, upon the receiving such assessment and warrant for collecting it, shall forthwith post in some public place of the town or plantation assessed, an attested copy of such assessment and warrant, and shall make no distress for any of the sums so assessed till after thirty days from his posting it up; and any person or persons paying the sum or sums respectively assessed on him or them to the Sheriff, before the expiration of the aforesaid thirty days, shall pay at the rate of five per centum over and above the sum assessed to the Sheriff for his fees, and no more; but all such as shall neglect to pay the sum or sums assessed, beyond the thirty days, after posting up the copy of the assessment as aforesaid, shall be proceeded against by the Sheriff by way of distress or commitment to jail in the manner Collectors are by this Act directed and empowered to distrain or commit to jail; and the said Sheriff or his deputy, may require suitable aid for that purpose. and they shall each one pay the fees for the Sheriff's service and travel as in other cases where distress is made on the person committed. *ch. 116, s. 51.*

* See p. 21, s. 9.

K.—Fees.

In case of distress or commitment for the non-payment of taxes, the officer concerned therein, shall be entitled to the same fees which sheriffs* by law are, or may be entitled to for levying executions; saving that the travel in case of distress, shall be computed only from the dwelling-house of the officer making such distress, to the place where the distress may be made. *ch.* 116, s. 55.

For copy of warrant on commitment, 33 cents.

For compensation for their general duty, see p. 54, s. 1.

L.—Forms.*Collector's Bond.*

§ 1. Know all men by these presents, that we, A. B., of the town of B., in the county of _____, and the State of Maine, [addition] as principal, and C. D., of _____, [addition] and D. E., of _____, [addition] as sureties, are held and firmly bound and obliged, to the inhabitants of said town of B., in the sum of _____ dolls. _____ cents to be paid to the said inhabitants; to which payment well and truly to be made we do hereby bind ourselves and each of us by himself, our and each of our heirs, executors and administrators, firmly, by these presents. Sealed with our seals. Dated the day of _____, in the year of our Lord, one thousand eight hundred and _____.

The condition of this obligation is such, that whereas the said A. B. was duly chosen and appointed on the _____ day of _____, to the office of Collector of taxes, within said town of B. for the year next ensuing from said _____ day of _____, and fully to be complete and ended:

Now if the said A. B. as Collector aforesaid, shall, during the year aforesaid, faithfully collect all such rates and taxes as shall be lawfully assessed on the polls and estates of said town of B. committed to him to collect; and shall faithfully serve and execute all warrants for the collection of such rates and taxes so committed to him for collection when issued by the proper authority; and shall pay over all the money so collected on the several taxes so committed to him, agreeably to the directions of such warrants therein

* See Constables, M.

taxes within said town for the year aforesaid, their list of assessments to collect, in which the lot of land in said town No. , (or the lot of land in the division of lots in said town, numbered , belonging to A. B. of C , or, belonging to some non-resident proprietor not by me known, or, belonging to D. E. now living out of the limits of said State, (as the case may be) was assessed in the sum of and whereas no person did duly appear to discharge said tax, although I advertised and posted the same in [*here name the papers, and the place where posted,*] as the law directs :

Therefore, know ye, that I, the said J. H. Collector as aforesaid, by virtue of the statute in such cases provided, and in consideration of , to me paid for discharging said taxes and necessary intervening charges, by W. R. of , in said county, have granted, bargained, and sold, and by these presents do grant, bargain, sell and convey to the said W. R. his heirs and assigns forever [*here describe the premises sold.*]

The same having been struck off to the said W. R., he being the highest bidder therefor, at a public auction legally notified, begun and held at (describe the place) in said , on the day of last.

To have and to hold the same, to the said W. R. his heirs and assigns forever, to his and their only proper use and behoof forever; saving however to the proprietor or proprietors the right of redemption of said lands, within any time for the space of two years from , the time of said sale. And I do covenant with the said W. R. his heirs and assigns, that the taxes aforesaid were legally advertised and posted by me, and that I have in all respects observed the directions of the law, in regard to the premises, and that I have good right to sell and convey the same to the said W. R. to hold as aforesaid.

In witness whereof, I do hereunto set my hand and seal this day of , in the year of our Lord eighteen hundred and J. H. (Seal.)

Signed, sealed and delivered
in presence of us. }
S. R.
T. W.

Certificate to be made upon the copy of assessment given to prison-keeper when a person is committed for taxes.

4. _____, 18 .

I hereby certify, that the sum which A. B. now committed to prison, is to pay as his proportion of the assessment within mentioned is \$; and that the cost of taking and committing the said A. B. is \$

J. H. Collector.

CONSTABLES.

A.—Their election and oath ; their power and duty to serve writs and processes ; their obligation to give bonds, and forfeiture for serving or executing process before they are given.

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| 1. Their election. | 8. Warrant to return absconding servants, &c. how served. |
| 2. Their oath. | 9. Warrants for conveying prisoners, or things, &c. how executed. |
| 3. May serve process in personal actions where damage does not exceed \$100. | 10. Service of process on the Lord's day void. |
| 4. Must previously give bonds. | 11. Commitment, where made if two jails in county. |
| ib. Forfeiture, in case. | 12. May pass through other counties to commit. |
| 5. To obey warrants from Justice of Peace. | |
| 6. To serve process from Judge of Probate. | |
| 7. To obey orders of commitment from overseers of workhouse. | |

B.—Mode of service of writs ; property exempted from attachment and distress.

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| 1. Mode of serving writs of attachment and for summoning defendant. | 4. Service of process on joint contracts, when one or more of defendants out of State. |
| ib. Service where defendant not an inhabitant or resident in the State. | 5. Mode of service on towns, parishes, &c. |
| 2. Service of process by original summons. | 6. Mode of serving process from Justice of Peace. |
| 3. Where defendant not an inhabitant or resident in State. | 7. Service of writs of foreign attachment. |
| | 8. Articles exempted from attachment, &c. |

C.—Sale of goods attached on writs and executions.

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| 1. Attachment valid 30 days after judgment. | 2. Appropriation of proceeds. |
| 2. Goods and chattels taken on execution to be kept 4 days. | ib. Officer to make return. |
| ib. If not then redeemed, to be sold. | ib. Liability in case of fraud. |
| | 3. Of the set-off of execution. |
| | 4. Sale on writs by consent of parties. |

D.—Of their authority and duty in regard to bail in civil actions.

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| <p>§1. Officer to return bail bond and writ.</p> <p>2. Duty to notify bail.</p> <p>ib. Fees to be paid in 20 days, unless, &c.</p> <p>3. Where Justice may deliver principal into custody.</p> <p>4. Justice to make out and deliver mittimus.</p> | <p>5. Officer's duty to receive principal at request of bail.</p> <p>ib. Fees for commitment.</p> <p>6. Their authority, duty and liability in regard to the mittimus.</p> <p>7. <i>Non est inventus</i>, no evidence of avoidance, unless, &c.</p> |
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E.—Their authority and the mode of executing it in the service of notifications on parties to depositions; on creditors of imprisoned debtors; and on those interested in petitions to the Legislature.

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| <p>§1. Mode of notifying adverse party.</p> <p>ib. Notice where several plaintiffs or defendants.</p> <p>2. Summons to deponent how served.</p> <p>3. Notification of imprisoned debtors to creditors, how served.</p> | <p>3. By whom served.</p> <p>4. Persons interested in petition how and by whom to be notified.</p> <p>5. Fees to be paid by petitioners; amount thereof.</p> |
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F.—Their exemption from serving as Jurors; the duty in the service of *venires* for Jurors and Coroner's warrants for a jury of inquest; and their liability for neglect of duties.

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| <p>§1. Exemption of Constables.</p> <p>2. On reception of <i>venires</i>. Constables to notify town meeting for selection of jurors.</p> <p>3. Manner of notifying.</p> <p>4. To notify the jurors drawn.</p> <p>ib. Time and manner of such notification.</p> <p>ib. To make return of <i>venire</i>.</p> | <p>5. Their duty to notify <i>provisional</i> jurymen.</p> <p>6. In certain cases to notify jurors to attend immediately.</p> <p>7. Fine for neglect of duty.</p> <p>8. Coroner's warrant to summon jury of inquest.</p> <p>9. Constable's duty thereupon.</p> <p>10. Penalty for neglect.</p> |
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G.—Their power and duty in the collection of taxes.

H.—Their authority to require aid in criminal cases; their duty to assist Justices in cases of affray, riot &c.

Their authority in suppression of riots.

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| <p>{1. They may require aid in preserving the peace or apprehending offenders.</p> <p>2. Duty to assist Justice.</p> | <p>2. Fine for refusal.</p> <p>3. Authority to disperse rioters, &c.</p> <p>ib. Penalties for disobedience.</p> |
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I.—The duty of officers to secure property, where persons accused of larceny or robbery are apprehended.

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| <p>{1. Officer to secure money, goods, &c.</p> <p>2. To make and return an inventory.</p> | <p>2. Officer to be accountable for the articles.</p> |
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K.—Their obligation to pay fines, forfeitures and bills of cost to County Treasurer, and exhibit evidence thereof: Their liability for escapes.

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| <p>{1. Constables, &c. to pay fines, forfeitures, &c. to County Treasurer.</p> <p>ib. Liability for neglect.</p> | <p>2. Their duty to produce receipts to Courts, or assign cause, &c.</p> <p>3. Their conditional liability for escapes.</p> |
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L.—Their authority to execute warrants for the seizure of articles for sale or exportation contrary to the inspection laws.

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| <p>{1. Empowered to seize beef and pork in certain cases.</p> <p>ib. May require aid; penalty for refusing.</p> <p>2. Similar powers and liability as to butter and hogs lard.</p> <p>3. Similar powers and liability as to fish pickled, &c.</p> | <p>4. May seize flax seed in certain cases.</p> <p>5. May seize hops; liability for refusing aid.</p> <p>6. May seize tobacco.</p> <p>7. May seize and secure wrought nails.</p> |
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M.—Their power and duty relative to watches and wards.

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| <p>{1. To warn and attend watch and ward.</p> <p>ib. To carry a badge of office.</p> <p>2. To charge the watch in regard to duty.</p> <p>3. Authority and duty of the watch.</p> | <p>4. Regulation of watch ordered by Court of Sessions.</p> <p>ib. Officer's badge of office, watchman's staff.</p> <p>5. Forfeiture for neglect of duty.</p> <p>6. To attend and obey Justices and Selectmen.</p> |
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N.—Fees.

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| <p>§1. Service of writ of original summons.</p> <p>2. Of <i>capias</i> or attachment.</p> <p>ib. Special service.</p> <p>3. Fees for copy.</p> <p>4. For bail bond.</p> <p>5. For service of warrant.</p> <p>6. For toll and ferrage.</p> <p>7. Travel by water.</p> <p>8. Aid in criminal cases.</p> <p>9. Summoning witnesses in criminal cases.</p> <p>10. For attending Court and keeping prisoner.</p> <p>11. Collecting executions in personal actions.</p> <p>12. Do. on writ of possession.</p> <p>13. Advertising equity of redemption.</p> <p>ib. Posting notifications.</p> | <p>13. Deed and return.</p> <p>14. Fees when extended on right of possession.</p> <p>15. For causing appraisers to be sworn and return of levy.</p> <p>16. Duty of officer to record levy.</p> <p>17. Travel for service of such executions and of mesne process or warrant, how computed.</p> <p>ib. Fees to be endorsed.</p> <p>18. For service of <i>venires</i>.</p> <p>19. For attending Grand Jury.</p> <p>20. For attending Traverse Jury.</p> <p>ib. For service of <i>venires</i>.</p> <p>21. For attending S. J. Court, Court of Sessions, or C. C. Pleas.</p> <p>22. For attendance and summoning Jury of Inquest.</p> |
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O.—Forms.

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| <p>§1. Constable's bond.</p> <p>2. Warning of town meetings for choice of town officers, &c.</p> <p>3. Warning of town meetings for the choice of Governor, Senators, Representatives in Legislature, Register of Deeds and County Treasurer.</p> <p>4. Warning of town meetings for selection of jurors.</p> <p>5. Return to be made on Clerk's <i>venire</i> for selection of jurors.</p> <p>6. Receipt to officer, for property in the hands of a keeper.</p> <p>7. Return on writ when sum-</p> | <p>mons given to defendant or left at his house.</p> <p>8. Return when bail is taken — or defendant committed.</p> <p>9. when personal property is attached.</p> <p>10. when defendant is only summoned.</p> <p>11. of sale of personal property, on execution of a warrant.</p> <p>12. of replevin writ.</p> <p>13. of trustee writ.</p> <p>14. Deed of Equity of redemption.</p> |
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A. — Their election and oath ; their power and duty to serve writs and processes ; their obligation to give bonds, and forfeiture for serving or executing process before they are given.

§ 1. The inhabitants of towns qualified to vote in the election of town officers, shall assemble in the month of March or April annually, in town meeting, and by a major vote choose one or more constables, by written ballots or such other method as the voters agree upon. ch. 114, s. 1.

2. The oath to be administered to the Constable in any town shall be in the form following :

Whereas you J. L. are chosen Constable within the town of B. for one year now following, and until another be chosen and sworn in your place, do swear, that you will carefully intend the preservation of the peace, the discovery and preventing all attempts against the same ; that you will duly execute all warrants which shall be sent unto you from lawful authority, and faithfully attend all such directions in the laws and orders of Court as are or shall be committed to your care, that you will faithfully, and with what speed you can, collect and levy all such fines, distresses, rates, assessments and sums of money for which you shall have sufficient warrants, according to law ; rendering an account thereof, and paying the same according to the direction in your warrant ; and with like faithfulness, speed and diligence, you will serve all writs, executions and distresses in private causes, betwixt party and party, and make return thereof duly in the same Court where they are returnable ; and in all these things you shall deal faithfully whilst you shall be in office, without any sinister respects of favor or displeasure. *So help you God. ch. 116, s. 25.*

3. Any Constable in any town or plantation within this State, hereby is authorized and empowered to serve upon any person or persons in the town or plantation to which he may belong, any writ, summons or execution, in any personal action, where the damage sued for or recovered shall not exceed one hundred dollars ; including all writs and processes to them duly directed, in which towns or plantations of which they are inhabitants, are parties or interested, and return thereof to make to the Court to which the same may be returnable. *ch. 92, s. 9.*

4. *Provided however,* That every Constable, after being chosen, and before he serve any writ, or proceed to collect any execution, shall give to the Treasurer of his town, a bond in the sum of two hundred dollars, with two sureties, sufficient in the opinion of the Selectmen and Town Clerk, for the faithful performance of his duties and trust, as to all processes by him served or executed ; and for every process he shall serve or execute before giving such bond, he shall forfeit and pay not less than twenty, nor more than fifty dollars, recoverable to the use of any person, who shall sue for the same. All persons suffering through the defaults or misdoings of such Constable, shall have the same remedies in law, on his bond, as are provided in respect to Sheriffs.

bonds, and the like proceedings in both cases shall be had, such changes being made, as will make the process effectual. *ch. 92, s. 9.*

All Bonds required to be given by Constables or Collectors of taxes, shall be given to the inhabitants of the towns for which they shall be chosen, or appointed, to be approved by the Selectmen of such Towns, and all Bonds required to be given by the Collectors of Parishes or Plantations shall be given to the inhabitants of such Parishes or Plantations to be approved by the Assessors or Committee of such Parishes and Assessors of such Plantations, any law to the contrary notwithstanding. *ch. 212. March, 1836.*

5. All Sheriffs, Constables and other officers are directed and empowered to serve any warrant issuing from a Justice of the Peace. *ch. 76, s. 6.*

6. All Sheriffs, deputy-Sheriffs, Coroners and Constables, are required duly to serve and execute all legal warrants, or other process to them directed, by any Judge of Probate. *ch. 51, s. 1.*

7. Two or more overseers of any town provided with a workhouse are empowered to commit to such house, by writing under their hands, any person or persons liable to be sent thither: and an order of commitment from two or more overseers directed to a Constable of the same town, shall, by such Constable, be obeyed and executed. *ch. 124, s. 6.*

8. Where a Justice issues his warrant for returning an absconding servant or apprentice, the warrant for returning such servant or apprentice to the place of his or her duty, directed to any officer or other person by name, shall authorize him to convey any such servant or apprentice to such place, notwithstanding it may be in another county in the State. *ch. 170, s. 5.*

9. Any Constable of any town or plantation within this State, shall have authority, in the execution of the warrant, or writ to him directed by lawful authority, to convey as well any prisoner or prisoners, as things that they may have taken into their custody, either to the Justice issuing such warrant or writ, or to the common jail or house of correction of the county where such Constable is an inhabitant, according as in the writ or warrant may be directed. *ch. 92, s. 10.*

10. No person shall serve or execute any civil process, from midnight preceding to midnight following the Lord's day: but the service thereof, shall be void, and the person serving the same shall be as liable to answer damages

the party aggrieved, as if he had done the same, without any such civil process. *ch. 9, s. 9.*

11. Where there are two jails in the same county, every person committed for debt shall be committed to the jail which is nearest to the debtor's place of abode. *ch. 209, s. 3.*

12. Whenever any Sheriff or Deputy Sheriff, Coroner or Constable shall have arrested any person or persons in any county, by virtue of any precept from competent authority, for the purpose of committing such person or persons to the prison of said county, it shall be lawful for said officer to convey said person or persons to said prison by the most convenient and suitable road or route, notwithstanding such road or route may pass through a part of one or more counties other than in that in which said prison is situated. *ch. 567, March 9, 1832.*

B.—Mode of service of writs; * property exempted from attachment and distress.

§ 1. When the goods or estate of any person shall be attached at the suit of another, in any civil action, a summons in form prescribed by law, shall be delivered to the party whose goods or estate are attached, or left at his or her dwellinghouse or place of last and usual abode, fourteen days before the day of the sitting of the Court where such attachment is returnable; and if the defendant was not at any time an inhabitant or resident within this State, or has removed therefrom, then such summons shall be left with his tenant, agent or attorney; and such service shall be made by the officer to whom the writ may be directed, who shall return the same according to the precept thereof; and if such defendant shall not have a tenant, agent or attorney within the State, and his goods or estate shall be attached as aforesaid, the officer shall return the writ with his doings thereon. *ch. 59, s. 1.*

2. In all suits wherein the process is by original sum-

* It would be inconsistent with the plan of this work, to go into a full detail of a Constable's powers to execute civil process; in strictness, his duty in this respect, may not be considered as that of a town officer. The mode of service in common cases, is given, and his duty in regard to bail: for further information, recourse may be had to the "CIVIL OFFICER."

mons, as against executors, administrators or guardians, scire facias, error, review, and all other civil actions wherein the law does not require a separate summons to be left with the defendant the service thereof by the proper officer shall be good and valid in law, either by his reading the writ or original summons to the defendant, or by leaving a certified copy thereof at his or her house or place of last and usual abode, fourteen days before the same is returnable. *ch. 59, s. 2.*

3. In all actions wherein the process shall be by original summons as aforesaid, and the defendant was at no time an inhabitant or resident within this State, or has removed therefrom, then the service thereof shall be in like manner by the proper officer's reading the same to, or leaving a like copy duly attested with the tenant, agent or attorney of the defendant, the like number of days before the day of the sitting of the Court whereto the same process shall be returnable. *s. 3.*

4. When two or more are jointly obligated by act of law or agreement, and one or more of them are without the State, having property or estate, but no tenant, agent, trustee or attorney within the same, the property or estate of those so without the State may be attached, and the summons being left by the officer serving the writ, with those within the State, shall be deemed a legal service on those without the same. *s. 5.*

5. When a suit shall be brought against any town, parish, or against the proprietors of any common or undivided lands or other estate, the plaintiff shall cause the Clerk of such town, parish or proprietors, or one or more of the Selectmen of such town or assessors of such parish, to be served with a copy of the writ of summons, at least thirty days before the day of the sitting of the Court to which the same shall be returnable. *s. 6.*

6. Justices of the Peace within their respective counties are severally empowered to grant summons, capias and attachment, at the request of any person applying for the same, directed to some proper officer within the same county, empowered by law to execute the same. And such summons or capias and attachment shall be duly served by such officer, seven days at the least before the day therein set for trial, otherwise the party sued shall not be held to answer thereon. *ch. 76, s. 8.*

7. The officer to whom a writ of foreign attachment may be directed, shall serve the same by attaching the goods and

estate of the principal of the value required, if so much can be found in his precinct, by reading the said writ to him, or by leaving an attested copy thereof at his last and usual place of abode, if he had been an inhabitant or resident within this State, at any time within three years next before the suing out such writ, and by reading the same to each of the trustees, or by leaving an attested copy thereof, at such trustee's usual place of abode; and in case the principal has not been an inhabitant or resident as aforesaid, a service made on the supposed trustee or trustees, in manner aforesaid, shall be deemed a sufficient service. *ch. 61, s. 1.*

8. The wearing apparel, beds, bedsteads, bedding and household utensils of any debtor necessary for himself, his wife and children; the tools of any debtor necessary for his trade or occupation; the bibles and school books, which may be in actual use in his or her family; all cast iron stoves and stoves made of sheet iron, used exclusively for the purpose of warming buildings; one cow, one swine, ten sheep, with the wool which may be shorn from them, and thirty hundred of hay for the use of said cow, and two tons for the use of said sheep, shall be exempted from attachment, execution and distress: *Provided*, That not more than one such stove to each building, owned or occupied by the same person or family shall be so exempted: *And provided also*, That the beds and bedding, exempted as aforesaid, shall not exceed one bed, bedstead and necessary bedding to two persons: nor the household furniture, the value of fifty dollars. *ch. 95.*

All produce of farms, of every kind while standing and growing, and until the same shall have been harvested, and corn and grain necessary and sufficient for the sustenance of a debtor and his family, not exceeding thirty bushels; also all the interest any debtor may have in one pew in any meeting-house where he and his family statedly worship, shall be exempt from attachment and distress. *ch. 341.*

All potatoes raised or purchased by any person for the consumption of himself and family, shall be exempt from attachment, execution and distress. *ch. 394.*

One cow, and one heifer or calf, until such heifer or calf shall become of the age of three years, or shall have had a calf; and also two swine, one of which shall not exceed the weight of one hundred pounds, belonging to any debtor in this State, shall be exempted from attachment, execution and distress; and where any debtor shall own a cow and a heifer more than three years old, or which has had a calf, or two

swine each exceeding the weight of two hundred pounds, such debtor by himself or agent, may elect the cow or the heifer or either of the swine to be exempt as aforesaid. *ch.* 478.

All firewood that may have been conveyed to the house of any person for the use of himself and family, shall be exempt from attachment, &c.: *Provided*, no person shall have at any time, more than twelve cords exempted as aforesaid. *ch.* 513.

Every citizen enrolled in the militia, and providing himself with arms, ammunition, and accoutrements required by law, shall hold the same exempt from all suits of distresses, executions or sales for debt, or for the payment of taxes. *U. S. Law*, 1792.

Every officer, non-commissioned officer, and private, shall hold his uniform exempted from all suits, distresses, executions or sales for debt, or the payment of taxes. *ch.* 164, *s.* 14.

From and after the passage of this Act, Boats not exceeding two tons burthen, usually employed in the fishing business, be, and the same are hereby exempted from attachment. *Provided however*, that this Act shall not be construed to exempt more than one such boat belonging to any one individual—nor to any boat not belonging wholly to citizens of this State. *ch.* 694.

One plough of the value of ten dollars, one cart of the value of twenty-five dollars, one harrow of the value of five dollars, and all necessary hand farming tools of the value of ten dollars; and one cooking stove of the value of thirty-five dollars, be, and the same hereby are exempted from attachment on mesne process or execution. *ch.* 307. *February*, 1838.

From and after the passage of this act, all anthracite coals and all bituminous coals and all charcoal that may have been conveyed to the house of any person for the use of himself or herself and family shall be exempt from attachment, execution and distress; *Provided*, that but five tons or chaldrons of anthracite or bituminous coals, and fifty bushels of charcoal shall be exempted as aforesaid, and that only when used for domestic purposes. *ch.* 358. *January*, 1839.

Any person who shall hereafter raise from his or her own cow or cows, or who shall purchase, and pay for, one pair of bull or steer calves, under one year old, shall hold the same exempt from attachment and execution so long as the

shall remain the property of the person, raising or procuring the same as aforesaid. *ch. 413. March, 1839.*

C.—Sale of goods attached on writs and executions.

§ 1. All goods and estate attached upon mesne process for the security of the debt or damages sued for, shall be held for the space of thirty days after final judgment, to be taken in execution; and if the creditor shall not take them in execution within thirty days after judgment, the attachment shall be void. *ch. 60, s. 1.*

2. When any goods or chattels shall be taken to satisfy an execution issuing upon a judgment obtained, such goods or chattels shall be safely kept, by the officer, at the expense of the debtor, for the space of four days next after they are so taken; and if within that time, the owner shall not redeem the same by otherwise satisfying the execution, such goods and chattels shall be sold at public vendue to the highest bidder, having first been advertised by the posting up notifications of the time and place of sale, forty-eight hours before the expiration of the four days, in the town or place where the sale is to be; and the money arising upon such sale shall be applied to the paying charges and the satisfying the execution, and the officer shall return the overplus, (if any there be) to the debtor. And the officer who is possessed of the execution shall make return of the same with his doings therein, particularly describing the goods taken and sold, and the sum for which each article was struck off; and if any officer shall be guilty of any fraud in the sale or in the return, he shall be liable to the debtor to pay him five times the sum defrauded, to be recovered by an action of the case. *s. 5.*

3. Whenever it shall happen that any Sheriff, Coroner, or other officer authorized by law to serve executions, shall at the same time have several executions wherein the creditor in one execution is debtor in the other, any such officer is hereby empowered and directed to cause one execution to answer and satisfy the other, so far as the same will extend: *Provided always*, That this act shall not be construed to extend to any judgments or executions wherein the creditor in one execution is not in the same capacity and trust, debtor in the other: *And provided also*, That nothing in this act shall be construed to affect or discharge the lien which any

attorney has or may have upon any judgments or executions for his fees and disbursements, or to affect the rights of any person to whom or for whose benefit the same judgments or executions, or the original cause of action thereof may have been assigned, bona fide, and without fraud. *ch. 60, s. 4.*

4. Whenever any personal property shall be attached on mesne process, on one or more writs, and the respective parties shall express their consent in writing, that the same may be sold at any time before judgment, it shall be the duty of the attaching officer to cause the same to be sold in manner provided by law, for the sale of similar property on execution, and the money produced by such sale, deducting all lawful charges, shall be held and retained by such officer, and shall stand bound to respond the judgment or judgments, to be rendered upon such writ or writs, in the same manner as if the same goods had remained specifically in the hands of such officer, and had been sold on execution. *ch. 508, s. 1.*

D.—Of their authority and duty in regard to bail in civil actions.

§ 1. When bail is given in any civil action for the appearance of the party to answer the suit and to abide the order and judgment of the Court thereon, the officer who served the writ, shall return the bail bond taken by him, with the original writ to the Court or Justice before whom the same may be returnable. *ch. 67, s. 1.*

2. The officer who may receive the execution shall notify the bail personally, or by leaving a written notice signed by said officer, at the usual places of abode of the bail, if living within the county in which said officer lives, at least fifteen days before the expiration thereof, certifying that he cannot find the principal debtor, nor whereof to satisfy said execution, for which notice, said officer shall have a right to demand, recover and receive of and from said bail the usual fees for service of writs, with travel from the officer's dwellinghouse to that of the bail, calculated on the road most usually travelled, and shall minute in said notice the amount of said fees, which the bail shall pay in twenty days, unless the bail shall at least one day before the execution is returnable, produce and deliver to the officer the principal debtor for whom bail was given. *s. 1.*

3. If the bail be taken on mesne process in any civil action, triable before any Justice of the Peace, shall, at any time before final judgment upon the original suit is rendered against him, or upon the return of *scire facias*, and before judgment thereon shall be rendered against him, bring his principal before such Justice, and shall procure the Sheriff of the county, or his deputy, or any Constable of the town wherein such Justice may reside, to attend and receive him, said Justice shall thereupon order him into the custody of such officer. *ch. 67, s. 5.*

4. When any principal, surrendered as aforesaid, shall be ordered into custody, the said Justice shall make out, and deliver to the officer receiving him, a warrant or mittimus. *s. 6.*

5. It shall be the duty of any officer as aforesaid upon the request of such person or persons being bail as aforesaid, to repair to said Justice's Court, in order to receive the principal as aforesaid; and such officer shall be allowed and paid by the bail for his receiving and committing said principal on said warrant or mittimus, the same fees as are provided by law for committing any defendant to prison on mesne process. *s. 7.*

6. All and every such officer or officers shall have the like power and authority, and be under the like obligations in all respects and regards whatsoever, to execute and return such warrant or mittimus, issued by such Justice, upon the surrender as aforesaid, as he or they may by law have and are under to execute and return any writ or execution whatever; and shall be subject and liable to all the like action or actions, for any fraud or falsehood and neglect of their duty, as is provided by law in other cases. *s. 7.*

7. No return of *non est inventus* made by any officer on any execution shall be considered as evidence of the debtor's avoidance so that the bail may be rendered liable on *scire facias*, unless such officer shall certify on such execution, that he has had the same in his hands at least thirty days before the expiration thereof. *s. 2.*

E.—Their authority and the mode of executing it in the service of notifications on parties to depositions; on creditors of imprisoned debtors; and on those interested in petitions to the Legislature.

§ 1. The service of a notification for taking a deposition on the adverse party in any civil cause, or his attorney, by leaving an attested copy thereof at his last and usual place of abode, allowing time for his attendance after being notified, not less than at the rate of one day, Lord's days exclusive, for every twenty miles travel; and such service being proved by the affidavit of a disinterested witness, or by the return on said notification of the Sheriff or his deputy of the county, or of the Constable of the town where the said adverse party or his attorney shall live, shall be deemed sufficient notice. And where there are several plaintiffs or defendants in any action, such notice to one of them, or the notice aforesaid to be given by the said Justice, given to one of them, shall be deemed sufficient. *ch. 85, s. 2.*

2. A summons to the deponent when served, and the service thereof proved as before prescribed, in the case of the said notification, shall be deemed good and sufficient. *s. 4.*

3. When any person committed to prison by force of an execution, shall make written complaint to the keeper of the jail where he is committed, that he has not estate sufficient to support him in prison, the keeper shall thereupon apply to a Justice of the Peace of the County, who shall make out a notification under his hand and seal, to the creditor, or such prisoner's desire to take the privilege and benefit of the oath or affirmation authorized by this act, and the time and place of the intended caption, which may be served by any sheriff, deputy, or constable, (not a party) on any creditor, if living within the State, or if not, on any agent or attorney, by an attested copy delivered in hand, or left at the last and usual place of abode of such creditor, agent or attorney, fifteen days at least before the time appointed for taking the oath or affirmation, that he may be present, he see cause; *Provided*, That if no creditor, agent or attorney live within the State, the notification shall be left with the Clerk of the Court, or Justice from whom said execution issued, at least fifteen days before such intended caption. *ch. 717, s. 9.*

4. Petitioners to any Legislature of this State, may cause individuals or corporations whose rights or interest may

ected, if known, to be served with a true and attested copy of the petition, sixty days at least before the commencement of the session of said Legislature, by any Sheriff, Deputy Sheriff, Constable or Coroner, who shall make due return thereof; and the notice thus given, shall have the same effect as notices ordered by the Legislature upon petitions presented and given in pursuance of such orders. *ch. 166, § 1.*

5. Every Sheriff, Deputy Sheriff, Constable or Coroner, who may serve a notice as aforesaid, shall be allowed and paid by the petitioners, four cents a mile for his actual travel in making the service, twelve cents a page for each copy of the petition, and thirty cents for each service thereof; and after service shall, on demand, deliver the petition with its return thereon to the petitioners. *s. 2.*

1.—Their exemption from serving as Jurors; their duty in the service of venires for Jurors and Coroner's warrants for a jury of inquest; and their liability for neglect of duties.

§ 1. Constables are excepted from the list of Jurors to be prepared by Selectmen. *ch. 84, s. 1.*

2. The sheriff of each county shall, without any delay forward venires for jurors to the Constables of the towns to whom they shall be directed; and the Constables of their respective towns, on the reception thereof, shall, in the usual term, notify the freeholders and other inhabitants, in their towns, qualified to vote in the election of Representatives, and particularly the Selectmen and town Clerk, to assemble and be present at the drafts and selection of the Jurors called for; which meeting shall be held at least six days, and not more than twenty days, before the sitting of the Court which the venire shall be returnable. *ch. 84, s. 5.*

3. The manner in which Constables, upon the receipt of venires for Jurors, shall notify the inhabitants of their respective towns to assemble, and to be present at their drafts aforesaid, shall, unless otherwise ordered by said towns respectively, be the same as has been or shall be established therein for notifying and warning their annual town meetings. But if any town shall, at a legal town meeting, have ordered that the notifications shall be by the Constable's giving notice to the selectmen or the major part of them, and the

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town Clerk, or by any other mode, such notification shall be sufficient. *ch. 84, s. 18.*

4. It shall be the duty of the Constable to notify the persons designated to serve as Jurors four days at least before the sitting of the Court, on which they are to attend, either by reading to them the venire, with the minutes of their having been drafted as aforesaid, thereon; or by leaving at their usual abode, a written notification of their having been so drawn, and also of the time and place of the sitting of the Court, and when they are to attend. And he shall make a reasonable return of the venire, to the Court to which it is returnable, with his doings thereon. *s. 7.*

5. It shall be in the discretion of the Courts respectively to direct their Clerk, when they shall issue their venires, to require that a second draft shall be made. And the Constables shall also notify these Jurors four days before the sitting of the Court of their being drawn as provisional Jurymen, in the same manner as is provided for the notification of the first set of Jurors. *s. 14.*

6. When by deficiency of either of the grand or traverse Jurors of any Court, it cannot conveniently proceed in its business, it may cause writs of venire facias for the drawing and returning so many Jurors as shall be deemed necessary, to be forthwith issued, and directed to the constables of such towns in the county as the Court, under the existing circumstances shall judge most proper; and the jurors so drawn, shall be notified by the Constables to attend on the Court immediately. *s. 8.*

7. Any Constable, who, having no justifiable cause therefor, shall neglect to discharge the duties incumbent on him by this act, by means whereof there shall be a failure of the Jurors called from his town, shall be subjected to a fine not exceeding twenty dollars, at the discretion of the Court. *s. 20.*

8. Each Coroner shall make out his warrant directed to the Constable of the town where the dead body of any person supposed to have come to his death by violence or casualty, is found or lying, for to the Constables of one or more of the three or four next adjacent towns, requiring them forthwith to summon a Jury of good and lawful men of the same town or towns, sufficient to make up nine in all, to appear before him at the time and place in such warrant mentioned and expressed. *ch. 93, s. 2.*

9. Every Constable to whom such warrant shall be directed and delivered, shall forthwith execute the same, and shall

repair to the place where the dead body is, at the time mentioned, and make return of the warrant with his doings thereon, unto the Coroner that granted the same. *ch. 93, s. 2.*

10. Every Constable failing unnecessarily of executing such warrant, or of returning the same as aforesaid, shall forfeit the sum of ten dollars. *ib.*

G.—Their power and duty in the collection of taxes.

The qualified voters of any town, at the time they choose Constables, may if they see cause, likewise choose some meet person or persons to be Collector or Collectors of the rates or taxes that shall be assessed upon such town, and agree upon what sum shall be allowed and paid unto such Collector or Collectors for his or their services; but if such Collector or Collectors so to be chosen, shall refuse to serve, or if no Collector shall be chosen, then the Constable or Constables of such town shall collect and gather such rates and taxes. *ch. 116, s. 23.*

H.—Their authority to require aid in criminal cases; their duty to assist Justices in cases of affray, riot, &c.

Their authority in suppression of riots.

§ 1. Any Sheriff, Deputy Sheriff, or Constable, being in the execution of his office, for the preservation of the peace, or for the apprehending or securing any person or persons, or breach of the same, or for any other criminal cause shall have lawful authority to require suitable aid and assistance herein.* *ch. 92, s. 7.*

2. Each Justice shall have authority to command the assistance of every Sheriff, Deputy Sheriff, Constable and all other persons present at any affray, riot, assault or battery,

* Penalty for neglecting or refusing aid, when required by any Sheriff, Deputy Sheriff, or Constable, in the name of the State, to aid and assist him in the execution of his office, for the preservation of the peace, not less than three dollars, nor more than fifty dollars, according to the circumstances of the case; and if any such offender shall be unable, or shall not forthwith pay the said fine, the Court may punish him by imprisonment not exceeding thirty days. *ch. 92, s. 7.*

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and may fine any person refusing such assistance, in a sum not exceeding six dollars. *ch. 76, s. 4.*

3. If any number of persons of twelve or more, shall unlawfully, riotously, or tumultuously assembled, and not immediately disperse themselves, after having been summoned by any Sheriff, Deputy Sheriff, or Justice of the Peace for county, or any Constable of any town, commanded so to do in the name of this State, each and every person of such assembly shall be punished by solitary imprisonment not exceeding one year, and afterwards be confined to hard labour for a term not exceeding one year, or fined in a sum, exceeding five hundred dollars, to the use of this State; or all of the above punishments according to the aggravation of the offence. *ch. 17, s. 1.*

I.—The duty of officers to secure property, where persons accused of larceny or robbery are apprehended.

§ 1. It shall be the duty of any Sheriff, or other officer who shall be charged with, or lawfully employed in apprehending and arresting any person accused of the crime of larceny or robbery, or as accessory therein, in any manner as aforesaid, to seize and secure the money, goods or other articles alleged to be stolen or to have been obtained by such larceny or robbery, and which shall be found in the possession of such accused person, or which shall be waved from him or her in flying from justice. *ch. 7, s. 17.*

2. And of the money, goods or other articles aforesaid, which shall be so found and secured, a true inventory or schedule shall be made in, or annexed to the return of such Sheriff or other officer, upon the warrant or process which shall have been issued for the arrest of any person accused as aforesaid; and such Sheriff or other officer shall be accountable for the money, goods or other articles thereby seized and secured. *ib.*

K.—Their obligation to pay fines, forfeitures and bills of cost to County Treasurer, and exhibit evidence thereof: Their liability for escapes.

§ 1. All Sheriffs, Coroners and Constables who may hereafter receive any fines, forfeitures or bills of cost, in pursuance of the judgment or sentence of either the S. J. Court, or C. C. Pleas in any county in this State, as well where such fines or forfeitures accrue to the State, as where they accrue to the county, except debts and costs received upon executions in favor of the State, shall forthwith pay the same to the Treasurer of the county in which they shall be received: and if any Sheriff or other officer, receiving such fine or forfeiture, or bills of costs, shall neglect to pay the same for the space of ten days after receipt thereof, he shall forfeit and pay double the amount of such fine or forfeiture, and bill of costs to such County Treasurer. *ch. 82, s. 3.*

2. Every Sheriff and other officer aforementioned, shall be held to produce to said Courts respectively, at every session thereof in their county, receipts in full from the County Treasurer, for all fines, forfeitures and costs imposed by said Courts respectively, received and paid, previous to the sitting of such Courts, or to assign the cause why they have not received, or not paid the same, in order that such Court may order a prosecution against such as shall appear to be delinquent. *ch. 82, s. 3.*

3. If any Sheriff or other officer, shall permit any person who may be sentenced to pay any fine, forfeiture, or bill of cost, and committed to the custody of such Sheriff or other officer or jailer, till such sentence be performed, to go at large without payment, unless by order of law, and shall not pay such fine, forfeitures and costs, to the county Treasurer, within twenty days next after such escape, he shall be held to pay double the sum of such fine, forfeitures and costs. *ib.*

L.—Their authority to execute warrants for the seizure of articles for sale or exportation contrary to the inspection laws.

§ 1. It shall be lawful for any Justice of the Peace, upon any information given of any beef or pork being put on board any vessel for exportation, not inspected and branded
9*

as required by law, to issue his warrant, directed to the Sheriff, or his deputy, or to a Constable, requiring them respectively to make seizure of any such salted beef or pork not marked and branded as aforesaid, and to secure the same in order for trial; and said officers are hereby respectively required and empowered to execute the same. And it shall be the duty of every person when required, to give the necessary aid for that purpose, on pain of forfeiting five dollars for his refusal. *ch. 148, s. 16.*

2. It shall be the duty of any Justice of the Peace, upon any information given of any butter or hogs lard being put on board any vessel for exportation not inspected and branded as required by law, to issue his warrant, directed to the Sheriff or his deputy, or to a Constable, requiring them respectively to make seizure of any such butter or hogs lard not marked and branded as aforesaid, and to secure the same in order for trial; and said officers are hereby respectively required and empowered to execute the same; and it shall be the duty of every person, when required, to give the necessary aid for that purpose, on pain of forfeiting five dollars for his refusal. *ch. 149, s. 6.*

3. If any pickled or barreled fish, or any smoked fish shall be put on board of any boat, vessel or carriage of conveyance, within this State, with intent to sell or export the same, unless said fish shall have been inspected, and the casks and boxes containing the same branded agreeably to law, it shall be lawful for any Justice of the Peace in the same county, upon complaint made to him, to issue his warrant to the Sheriff or his deputy, or to any Constable of the town where such boat, vessel, or carriage of conveyance may be, requiring them respectively to seize and secure said fish, and carry the same to the inspector nearest the place where said boat, vessel or carriage may be. And it shall be the duty of every person, when required, to give necessary aid to the officer having such warrant, on pain of forfeiting five dollars for his refusal. *ch. 150, s. 9.*

4. It shall be lawful for any Justice of the Peace, upon information given of any flax seed, put on board any ship or other vessel not marked according to law, to issue his warrant, directed to the Sheriff or his Deputy or Constable, requiring them respectively to make seizure of any such flax seed, shipped and not marked as aforesaid, and to secure the same in order for trial; and such officers are hereby respectively empowered and required to execute the same. *ch. 155, s. 4.*

5. It shall be lawful for the inspector of hops or any of his Deputies, on information given of any hops being put on board any vessels for exportation not inspected and marked, required by law, to issue a warrant directed to the Sheriff, his deputy, or to a Constable, requiring them respectively to make a seizure of any such hops, not inspected and marked as aforesaid, and to secure the same, in order for trial; and said officers are hereby respectively required and empowered to execute the same; and it shall be the duty of every person, when requested, to give the necessary aid for that purpose on pain of forfeiting five dollars for his refusal. *ch. 153, s. 6.*

6. It shall be lawful for any Justice of the Peace, upon information given of any tobacco, put on board any ship or vessel bound to any port without the State, not duly marked and branded, to issue his warrant, directed to the Sheriff, his deputy, or a Constable, requiring them respectively to make a seizure of any such tobacco, shipped and not marked as aforesaid, and to secure the same in order for trial; and said officers are hereby respectively directed and empowered to execute the same. *ch. 154, s. 3.*

7. It shall be lawful for any Justice of the Peace, on information given of any package or cask of wrought nails, manufactured in this State, or in any other of the United States, which shall be brought into this State for sale, and shall be put on board any vessel, wagon or carriage for transportation, or conveyance by land or water, from this State, or shall be offered for sale in any store, street or elsewhere, without being first inspected and branded, agreeably to law, to issue his warrant, directed to the Sheriff or his deputy, or Constable requiring them respectively, to make a seizure of all such nails, and to secure them in order for trial: and such officers are hereby respectively empowered and required to execute the same. *ch. 157, s. 7.*

—Their power and duty relative to watches and wards.

§ 1. The Justices of the Peace and Selectmen of any town may order a suitable watch to be kept nightly in such town and also a ward to be kept in the day time and evenings, and appoint the number of persons, the places and the means of keeping the same; and give orders in writing ac-

cordingly, signed by a major part of such Justices and Selectmen, directed to any Constable or Constables of the town, empowering him or them from time to time, to warn such watch or ward, and to see that all persons so warned by him or them, do attend and do their duty in such a manner as shall be required; and in warning thereof to take care that some able householders or other sufficient persons be joined in each watch or ward. And each Constable when attending such watch or ward shall carry with him the usual badge of his office. *ch. 125, s. 2.*

2. Such Constable or Constables shall charge the watch to see that all disturbances and disorders in the night be prevented and suppressed: and to examine all persons whom they shall see walking abroad in the night after ten o'clock, and whom they shall have reason to suspect of any unlawful intention or design, of their business abroad at such season, and whither they are going; and in case they give no reasonable satisfaction therein, then to secure by imprisonment or otherwise, all such suspicious persons, to be safely kept until morning; then to carry them before one of the nearest Justices of the Peace to be examined and proceeded against, according to the nature of their offences, as is by law directed. *s. 2.*

3. Such watchmen shall walk the rounds in and about the streets, wharves, lanes, and principal inhabited parts within such town, to prevent any danger by fire, and to see that good order is kept, taking particular observation and inspection of all houses and families of evil fame, and shall strictly observe the charge to be given them as aforesaid. *s. 2.*

4. Where a watch shall be ordered by the Court of Sessions on the application of any town, the number and qualifications of the persons whereof it shall also consist, shall be agreed upon by said town; and one sober discreet able bodied householder shall be appointed officer of the watch by said Justices and Selectmen, to take the charge and command of such watch, who, as the badge of his office, shall carry a quarter pike with a spire on the top thereof; and every watchman, as well in this as in a Constable's watch, shall carry a staff with a bill fastened thereon as is usual. And the powers and duties of said officer and watchmen shall be the same as before prescribed in the case of a Constable's watch. *s. 3, 4.*

5. If any person liable to watch or ward* being duly warn-

* Male persons of the age of eighteen, being able of body or having estate sufficient to hire, shall be liable to watch and ward, either in

the officer of the watch, a Constable, or by a person aided by them, shall neglect to attend to his duty by or another person in his stead, and be thereof convicted before a Justice of the Peace, either by the oath of the stable, officer, or other sufficient testimony, without any reasonable excuse, he shall forfeit one dollar with the use of the town, to be levied by distress or be sent to prison until paid. And if any Constable or officer of the watch shall neglect or refuse to observe his duty he shall from time to time receive, he shall for pay to the use of the town, a sum not exceeding one dollar, to be levied as aforesaid. *ch. 125, s. 5.*

When the Justices and Selectmen shall think fit to call out the night, to inspect the order of the town, such of the constables and watchmen shall attend them as shall be required and obey their lawful commands. *s. 6.*

N.—Fees.*

For the service of an original summons or scire facias by reading the same, or by copy on one defendant *twenty-five cents*; if on more than one defendant then on each other defendant so served *twenty-five cents.* *ch. 125, s. 1.*

For the service of a capias or attachment on one defendant with summons, *twenty-five cents*; if served on more than one defendant then *twenty-five cents* for each defendant served. And if the officer, by the written direction of the plaintiff or plaintiffs, his or their agent or attorney shall perform special service of any writ of attachment, by attachment on property, he shall receive therefor the sum of *fifty cents*, for giving the summons thereon; and for taking the body on arrest, he shall be allowed the sum of *fifty cents* for each defendant on whom such writ shall be so served. *s. 1.*

Where the officer is by law directed to leave a copy of the writ to complete the service, or shall give a copy of any

writ to be served by another sufficient person, when duly warned, except at a distance more than two miles from the place, and except ministers of the gospel. *ch. 125, s. 1.*

Liability for taking excessive fees, or for not specifying them in the writ, *see Officers.* For compensation for town business, *see Constables. C. 8.*

precept upon demand thereof, he may charge at the rate of *twelve cents* a page. *ch. 105, s. 1.*

4. For a bail bond, and writing the same, including principal and sureties, to be paid by the person admitted to bail, and taxed for him if he shall prevail—*twenty cents. ib.*

5. Serving a warrant—*fifty cents. ib.*

6. For travel across any toll bridge or ferry actually passed on the service or return of a writ, execution or warrant, the sum by law payable at such bridge or ferry for a man and horse, if actually paid on the service or return of such writ, execution or warrant. *ch. 445, s. 1.*

7. And for travel by water to and from any Island, or crossing any river in making service of any writ or warrant, where there is no ferry established, such sum as may be allowed by the court to which such writ or warrant may be returnable. *ib.*

8. (Sheriff's) aid in criminal cases to each person for every twelve hours attendance including expenses, *one dollar*; and so in proportion for a greater or less time; and *four cents* for each mile's travel going out and returning home.* *ch. 105, s. 1.*

9. Summoning witnesses in criminal cases, *twenty-five cents* for each witness, and travel as in civil causes, unless in special cases, when the court may increase the fees to what they may judge reasonable. *ch. 228, s. 2.*

10. For the Sheriff's or Constable's attending the Court, and keeping the prisoner, in criminal cases, *seventy-five cents* for every twelve hours; and so in proportion for a greater or less time. *ch. 105, s. 1.*

11. For levying and collecting executions in personal actions, for every dollar of the first hundred dollars, *three cents*; for every dollar above one hundred and not exceeding two hundred dollars, *two cents*, and for every dollar above two hundred dollars, *one cent.* *ch. 445, s. 1.*

12. For collecting costs on a writ of possession, the same as on executions in personal actions. *ib.*

* Justices of the Peace and Courts of Justice are required to inquire of any officer on oath into the necessity of any charges for fees for aid or other expense in serving any warrant. And no charge other than for service and travel shall be allowed any officer, unless on such inquiry and examination it shall appear that the said officer was resisted in making service of such warrant, or that he had reasonable ground to apprehend resistance. And in all such cases the Justice or Court shall allow only so much of said charge as seems reasonable and necessary, considering the nature of the service and the circumstances of the case. *ch. 235, s. 2.*

13. For advertising a right in equity of redeeming real estate mortgaged, in a public newspaper, such sum as he may pay to the printer for such advertisement. For writing and posting up notifications, in case of a sale of such equity, one dollar and fifty cents. For making out a deed and the return of the sale of such equity, one dollar and fifty cents. *ch. 309, s. 1.*

14. And when the estate, right, title, or interest, of any person, held or claimed in virtue of a possession or improvement, shall be seized and sold upon execution, by any officer, he shall be entitled to the same fees as are above given in case of sale of an equity of redemption. *ib.*

15. For causing appraisers to be sworn and making return of levy *fifty cents. ib.*

16. It shall be the duty of every officer, who shall levy an execution on real estate, to cause the same to be recorded by the register of deeds of the county where such land lies, within three months after such levy. *ib.*

17. Travel for the service of mesne process or warrant on him directed, *four cents* a mile, the travel to be computed from the place of service to the Court or place of return by the usual way; only one travel shall be allowed for one writ, execution or warrant, and if the same be served on more than one person, then the travel shall be computed from that place of service which may be most remote from the place of return, with all further necessary travel in serving such execution, writ or warrant; but if the travel from the place of service to the place of return be more than fifty miles then only one cent a mile shall be allowed for all travel exceeding that distance. The travelling fees and fees of service shall be endorsed by the officer serving the same, otherwise they shall not be allowed. *ch. 105, s. 1.*

18. The fees of Constables for the service, travel and return of each venire shall be one dollar and fifty cents, to be paid out of the County Treasury. *ch. 507, s. 2.*

19. To the officer attending the Grand Jury, for each day's attendance, *seventy-five cents. ch. 105, s. 1.*

20. To the officer attending the Traverse Jury for every cause, to be paid with the jury fees, *twenty-five cents.*

21. For every Deputy-Sheriff or Constable who shall attend the Supreme Judicial Court or Court of Sessions, or Court of Common Pleas by their order, *one dollar and fifty cents* a day, to be paid out of the county treasury. *ib.*

22. A Constable is allowed for his attendance and expenses in summoning a Jury of inquest, *ninety cents* a day. *ib.*

O.—Forms.

Constable's Bond.

§ 1. Know all men by these presents, that we J. L. of B. in the county of C. and State of Maine (addition), as principal, and D. S. (addition,) of , and R. E. (addition,) of , as sureties, are held and firmly bound and obliged unto the inhabitants of said Town of B. in the sum of two hundred dollars, to be paid to the said inhabitants : to the true payment whereof, we bind ourselves and each of us, our, and each of our heirs, executors and administrators, jointly and severally, by these presents. Sealed with our seals. Dated the day of , in the year of our Lord one thousand eight hundred and

The condition of this obligation is such, that whereas the said J. L. was duly chosen on the day of to the office of Constable within the said town of B. for the year then following, and until another should be chosen and sworn in his place : now if the said J. L. shall well and truly serve, execute, and return all precepts issuing from legal authority, to him directed and committed ; and shall pay over all moneys which he, in his said capacity as Constable, shall collect and receive, and shall faithfully perform all the duties to his said office appertaining, then this obligation shall be void ; otherwise the same shall remain in full force and virtue.

<i>Signed, sealed and delivered</i>	J. L.	(Seal.)
<i>in presence of</i>	D. S.	(Seal.)
	R. E.	(Seal.)

Warning of town meetings for choice of town officers, &c.

2. These are to summon and notify the inhabitants of the town of B, qualified to vote in town affairs, to meet at , on the day of , at of the clock in the noon, to act upon the following articles,— viz.

1st.

2d. &c.

By order of the Selectmen. J. L. Constable of B. Dated , A. D. 18 .

Warning of town meetings for the choice of Governor, &c.

3. These are to notify and warn the inhabitants of the town of B. qualified according to the constitution* to assemble

* In warning for the choice of Register of Deeds or County Treasurer, instead of the words, according to the Constitution, say, "to vote for Representatives."

, on the day of , at of the
 re noon, to give in their votes for a Govern-
 ators, and for one (or more) Representatives to
 them in the Legislature.

18 . By order of the Selectmen.

J. L. Constable of B.

ing of town meetings for selection of Jurors.

se are to notify the freeholders and other inhabit-
 id B. qualified to vote in the election of Represen-
 assemble and be present on the day of ,
 of the clock in the noon, at the drafts and
 of persons to serve as (grand, *or*, traverse, *as the*
be) jurors at the next Court of , agreeably to
venire from the Clerk of said Court to me directed.

J. L. Constable of B.

18 .

be made on Clerk's venire for selection of Jurors.

B.

18 .

it to the within (or above) writ of *venire*, I notified
 lders and other inhabitants of said town qualified
 the election of Representatives, to assemble and
 t, on the day of , at the drafts and
 of persons to serve as (grand, *or*, traverse, *as the*
be) jurors at the Court (in the writ) mentioned;
 d meeting the names of A. B. and C. D. were
 of the jury box as the law directs, and I have no-
 A. B. and C. D. to attend said service accordingly.

J. L. Constable of B.

to officer, for property in the hands of a keeper.

B.

18 .

ed of J. L. Constable of B. the following proper-
 ed by the said J. L. at the suit of A. B. vs. C. D.

ards blue kerseymere of the value
 of ten dollars,
 ece of blue broadcloth of the value
 one hundred dollars,

\$10 00

100 00

\$110 00

I promise said J. L. safely to keep said property and to demand the same to re-deliver to him at the dwellinghouse of said C. D. (or elsewhere according to the agreement) in like order and condition as when received.

T. P.

Return on writ when summons given to defendant or left at his house.

7. Cumberland, ss. May 2, 1840.

By virtue of this writ, I attached a chip, the property of the within named A. B. and gave him a summons in hand for his appearance at court [or, left a summons at his last and usual place of abode, for his appearance at court.]

J. L. Constable of B.

Fees.

Service,	-	-	25	cents.
Travel 5 miles,	-	-	20	"

45 cents.

Return when bail is taken—or defendant committed.

8. Hancock, ss. May 3, 1840.

By virtue of the within writ, and for want of property, arrested the body of the within named A. B. and held him to bail.

S. T. Constable of P.

Fees.

Service,	-	-	50	cents.
Travel 4 miles,	-	-	16	"

66 cents.

Return when personal property is attached.

9. Lincoln, ss. May 4, 1840.

By virtue of this writ I attached a horse, as the property of the within named A. B. and at the same time gave him a summons for his appearance at court.

Fees.

Service,	-	-	50	cents.
Travel 6 miles,	-	-	24	"

J. R. Constable of T.

74 cents.

Return when defendant is only summoned.

10. Kennebec, ss. May 5, 1840.

By virtue of this writ I have summoned the within named N. Y. for his appearance at court, by reading this writ to him aloud in his hearing, or, by giving him an attested copy of this writ, or, by leaving an attested copy of this writ at his last and usual place of abode.]

Fees.

G. R. Constable of W.

Service. - - 25 cents.

Travel 7 miles, - - 28 "

 53 cents.
Return of sale of personal property on execution.

11. York, ss. May 6, 1840.

By virtue of this execution I took a horse the property of the within named A. B. and afterwards, to wit, on the same (or the next) day, being the day of , I advertised the same for sale by posting up notifications of the time and place of sale, in the town of A. in said county, forty-eight hours before the expiration of four days from the time said horse was so taken, and having safely kept the same for the space of said four days, and the owner not redeeming the same, within that time, by otherwise satisfying this execution; I did at a public vendue, held at the dwellinghouse of W. H. of said A. (addition,) on the day of , sell the said horse to C. D. of said A. (addition) he being the highest bidder therefor; for the sum of , and applied the same in full satisfaction of this execution and charges. I therefore return this execution fully satisfied.

Fees.

J. S. Constable of A.

Levy - - \$2.00

Travel 10 miles - - 40

Expense of keeping 1.00

 \$3.40
Return of a Warrant.

12. Somerset, ss. May 7, 1840.

By virtue of this warrant, I have arrested the body of the within named A. B. and have brought him before the within named Justice [or before L. M., Esq. one of the Justices of

Peace for said county,] for the purpose within mentioned. I have also summoned the within named G. H., I. K., and O. P. to appear as witnesses before said Justice for the purpose within mentioned.

U. V. Constable of N.

Fees.			
Service	-	-	50 cents.
Travel 6 miles	-	-	24
Attending court and keeping			
prisoner 12 hours	-	-	75
Two aids' attendance 12 hours			2,00
Summoning 3 witnesses	-	-	75
Travel 8 miles	-	-	32

\$4.56

For Forms, other than those preceding, in matters relating to Elections, see that title.

Return of a Writ of Replevin.

13. Penobscot, ss. Aug. 22, 1840.

By virtue of this writ, I have replevied the within described goods and chattels (or cattle) and have delivered the same to the within named A. B. and have taken his bond for abiding the order and judgment of Court in the action, and summoned the within named C. D. for his appearance at Court, by reading this writ in his presence.

Return of Trustee Writ.

14. P. ss. By virtue of this writ, I attached a chaise, the property of the within named A. B. and summoned him for his appearance at Court, by reading this writ in his presence; and also summoned the within named C. D. and E. F. the trustees, for their appearance at Court by giving an attested copy of this writ to the said C. D. and leaving an attested copy thereof at the last and usual place of abode of the said E. F.

Deed of Equity of Redemption of a mortgage sold on Execution.

15. To all persons to whom these presents shall come, B. F. Gentleman and Constable of the town of O. Greeting.

reas A. C. on attached upon mesne process
 herein J. W. of was plaintiff and D. E. of
 endant, all the right in equity which the said D. E.
 redeeming the real estate hereinafter described;
 by the consideration of the Court of Common Pleas
 on the said J. W. recovered judgment
 upon which a writ of Execution issued from the
 office in due form of law, dated the day of
 to which was delivered to the said B. F. for
 and whereas by virtue of said writ of Execution,
 order to satisfy the same, the said B. F. did after-
 n take and seize the right in equity of said D. E.
 eming the following [describe the premises] being
 to a mortgage made by said D. E. to R. S. to secure
 ment from said D. E. to said R. S. of as by
 ted and recorded, and gave notice in writing of
 and place of the sale thereof let the same
 at and usual place of abode, and notice
 ng up notice thereof in two public places in said
 O. in which said mortgaged estate is situated, and
 public places in H. and L. being towns adjoining said
 y days before the said time of sale, and also caused
 rtisement thereof to be published three weeks suc-
 y before the day of sale in printed in the Coun-
 the notifications having been given within thirty
 er judgment given upon which said execution issued,
 ing duly given notice to E. D. and having duly ad-
 the premises according to law] and whereas after-
 the said B. F. on did offer the said right in
 or sale at public auction and the same was struck
 sold to A. B. of who was the highest bidder
 chaser at said sale for the sum of which was
 rest sum bid therefor.

therefore know ye, that I, the said B. F. Constable
 own of O, in my said capacity, in consideration of
 to me paid by A. B. aforesaid, the receipt
 f I do hereby acknowledge, have bargained and sold
 hereby bargain, sell and convey unto him the said A.
 heirs and assigns forever all the right in equity which
 l D. E. has of redeeming the above described prem-

ave and to hold to him the said A. B. his heirs and
 to their use and behoof forever; subject nevertheless
 ight in equity of the said E. D. of redeeming the same

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| <ul style="list-style-type: none"> 4. To be sworn. 5. Penalty for neglect. 6. Provisions as to classed towns and plantations. 7. Provisions as to meetings for choice of Senators and Governor. 8. Power of presiding officers. They shall refuse improper votes. 9. Votes for Senators to be on one list. 10. No person to vote until his name is found in the list. 11. Votes to be in writing and delivered by voters. 12. Votes for all officers to be on one list. ib. Towns may vote separately for Representatives. ib. Ballots written or printed. 13. Duties in regard to votes for Senators and Governor. | <ul style="list-style-type: none"> 14. Lost returns to be certified anew and attested before a Justice and sent to Sec. State. 15. Lists of votes to be delivered to Representatives. 16. Proceedings when there is no choice of Representative. 17. When vacancy happens in towns. 18. When in districts. 19. Examination of votes in classes. 20. When no choice, new meetings to be held. 21. Mode of notifying meetings of Selectmen, &c. ib. Determining future meetings. 22. Time of meetings for new choice. 23. Residents in unincorporated places may be taxed in towns of the class. 24. May vote in such town. |
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(d) Penalties on town and plantation officers.

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| <ul style="list-style-type: none"> §1. Penalty on Selectmen or Assessors for neglect of constitutional duty respecting elections. 2. On Clerks, and Assessors of plantations for neglect to make records, and returns, &c. 3. On Clerks, Selectmen or Assessors in representative districts, for neglect of constitutional duty. 4. On Selectmen or Assessors for neglect of certain duties prior to election. 5. Penalty for neglect to post up lists of voters. ib. Treasurer to prosecute. 6. Penalty for neglect of Constables, &c. to notify meetings. | <ul style="list-style-type: none"> 7. On presiding officers for receiving votes of unqualified voters. 8. On Selectmen or Assessors for receiving votes not in writing and delivered by voter. 9. On Moderator or Selectmen for permitting inspection of votes before closing the poll. 10. For receiving ballots on colored paper, &c. 11. For persons neglecting to deliver returns of votes. 12. For neglect of Selectmen to make new certificates of returns, &c. 13. For neglect by Selectmen, &c. to hold meetings to examine copies of votes. 14. No penalty incurred for official acts or neglects, unless. |
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C.—Elections of county officers involving duties of town officers.

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|--|---|
| <ul style="list-style-type: none"> §1. Register of Deeds. Choice; qualification of voters: Duty of Selectmen, Assessors and Clerks. | <ul style="list-style-type: none"> 2. Proceedings if, on return of votes, no choice. |
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1. New choice to be had, upon death, resignation or removal of Register.

4. County Treasurer. Choice; qualification of voters; duty of Selectmen, Assessors and Clerks.

D.—Election of town officers, and the prevention of intemperance at Elections.

1. Qualifications of voters for town officers.

2. Do. in town affairs.

3. Assessors to form lists of voters.

ib. To be in session to receive evidence of qualifications.

4. Time and place of annual meeting.

5. No person to vote until his name is checked.

6. What officers must be chosen by ballot.

7. Organization of meeting.

8. Choice of officers.

8. Exemptions from being chosen.

9. Constable to make return of warrant, on penalty, &c.

ib. Constable's compensation for services in town business.

10. Vacancies how filled.

11. Penalties on Selectmen or Assessors for neglect of duties.

ib. Penalty.

12. Selectmen may seize liquors, &c. for sale at elections.

13. Shall dispose of such articles not claimed.

E.—Forms.

1. Warrant to warn town meeting for the choice of Governor, Senators and Representatives in the Legislature.

2. Officer's return thereon.

3. Return of votes for Governor, to be delivered into the Secretary's office.

4. Similar return of votes for Senators, &c.

5. Certificate of the election of Representatives in the Legislature.

6. Return of votes for Representatives to Congress.

7. Warning of meeting for choice of Register of Deeds and County Treasurer.

8. Warning of meeting for choice of town officers, or for other town affairs.

9. Warrant of Selectmen or town clerk to notify town officers to take their oaths of office.

10. Officer's return thereon.

A.—Election of Representatives to Congress.

§ 1. The House of Representatives in the Congress of the United States shall be composed of members chosen every second year by the people of the several States and the electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State legislature. *Const. U. S. Art. i, s. 2, cl. 1.*

2. The Representatives chosen in the several districts

shall at the time of their election be resident therein, and shall be chosen in manner following.

The Selectmen of the several towns, Assessors of the several plantations and Aldermen of the city of Portland shall, in manner prescribed by law for calling electors' meetings, cause the inhabitants of their several towns and plantations and of said city, duly qualified to vote for Representatives in the Legislature of the State, to assemble on the second Monday of September next, to give in their votes, to the said Selectmen, Assessors, and to Aldermen of the city of Portland, for the Representatives to the Congress of the United States to which the district, in which said town, plantation or city may lie, may be entitled according to the 2d section of this act. *Stat. 1833, ch. 21, s. 2, 3.*

3. And the said Selectmen, Assessors and Aldermen or the major part of them, shall preside in said meetings, and in open meeting count and sort the votes, and shall form a list of the names of the persons voted for, with the number of votes for each person, written in words at length against his name. And the town, plantation and city clerk shall make record thereof. And said Selectmen, Assessors and Aldermen shall in such meeting make public declaration of the persons voted for, and the number of votes they respectively have, and shall in open town or plantation meeting seal up said list certified by said Selectmen, Assessors or Aldermen, and express upon the outside of said list the district in which the votes were given, and shall transmit the same within forty days next after such meeting to the Secretary of State. *s. 3.*

4. In case there shall be no choice of the Representative or Representatives to which any district may be entitled by a majority of the votes returned therefrom, the Governor shall cause precepts to issue to the Selectmen of the several towns and Assessors of the several plantations, and the Municipal authorities of any city within such district, directing and requiring them to cause the inhabitants of such towns, plantations or city, qualified as aforesaid, to assemble as aforesaid, on a day in such precept to be appointed, to give in their votes for a Representative or Representatives in Congress for said district, as aforesaid; which precept shall be accompanied with a list of persons voted for in said district, shewing the number of votes for each person, according to the first return. And the same proceedings shall be had thereon, in all respects, as before directed in this Act. And the returns of the votes given on said second trial shall

be returned into the Secretary's office within the time limited in said precept. And like proceedings shall be again had, in case any district shall fail, on said second trial, to elect the Representative or Representatives, to which said district shall be entitled. And the like proceedings shall be had as often as occasion may require. s. 4.

5. Whenever any vacancies shall happen in the representation of the State in Congress, the Governor shall cause precepts to issue as aforesaid for assembling in town, plantation or city meetings the qualified voters aforesaid, in the district in which the vacancy may happen, to give in their votes for a Representative to supply such vacancy; and like proceedings shall, from time to time, be had in all respects as in this Act provided. s. 5.

6. If the Selectmen of any town, Assessors of any plantation or Aldermen of any city shall neglect to perform any of the duties, required of them by this Act, each Selectman, Assessor or Alderman, so neglecting, shall forfeit a sum not exceeding Two Hundred Dollars, nor less than Thirty Dollars, for any such neglect. And any of said forfeitures may be recovered by indictment before the Supreme Judicial Court or Court of Common Pleas, to the use of the State. s. 7.

7. The election for Representatives to the Congress of the United States shall take place and be on the second Monday of September one thousand eight hundred and thirty-three, and on the second Monday of September one thousand eight hundred and thirty-four, and then biennially, so often as the State shall be entitled to elect said Representatives. *Provided however*, That the Governor by and with the advice of Council, may issue his proclamation and order the first election to take place at any time after the first Monday in April, and previous to the second Monday of September next. s. 8.

8. This Act shall continue and be in force until a new apportionment of Representatives, among the several States, shall be made, and for the purpose of supplying any vacancy or vacancies which may happen in the Representatives of this State in the Congress of the United States which shall make such apportionment. s. 10.

B.—Elections of State officers, involving duties on the part of town officers.

(a) Qualifications of Electors and time of holding meetings.

§ 1. Every male citizen of the United States of the age of twenty-one years and upwards, excepting paupers, persons under guardianship, and Indians not taxed, having his residence established in this State for the term of three months next preceding any election, shall be an elector for Governor, Senators and Representatives, in the town or plantation where his residence is so established; and the elections shall be by written ballot. But persons in the military, naval or marine service of the United States, or of this State, shall not be considered as having obtained such established residence by being stationed in any garrison, barrack or military place, in any town or plantation; nor shall the residence of a student at any seminary of learning entitle him to the right of suffrage in the town or plantation where such seminary is established. *Const. Maine, Art. 2, s. 1.*

All other qualified electors living in places unincorporated, who shall be assessed to the support of government by the Assessors of an adjacent town, shall have the privilege of voting for Senators, Representatives and Governor in such town; and shall be notified by the Selectmen thereof for that purpose accordingly. *Const. Art. 4, part 2, s. 3.*

2. The election of Governor, Senators and Representatives, shall be on the second Monday of September annually forever. *Const. Art. 2, s. 4.*

(b) Duties of Selectmen and Assessors, prior to elections.

§ 1. It shall be the duty of the Assessors of each town within this State, on or before the first day of August annually, to make out and deliver to the Selectmen thereof a correct and alphabetical list of all such inhabitants of their respective towns as shall appear to them qualified by the Constitution of this State, or of the United States, respectively, to vote for Governor, Senators, Representatives in the State, or in Congress; which list it shall be the duty

of the Selectmen of such town at some time within ten days then next following, to revise and correct, as to them shall appear necessary, so that the same shall, in their opinion, be a complete list of such of the inhabitants, within their respective towns as shall be constitutionally qualified to vote in the elections aforesaid : And the Assessors of every plantation are alike required to furnish themselves with like lists, on or before the tenth day of August annually. *ch.* 115, s. 1.*

2. Said list shall so be corrected, previous to the opening of any meeting for the choice of Governor, Senators, and Representatives in the Legislature or in Congress as to contain all the qualified voters for the particular election then to be made. *ib.*

3. It shall be the duty of such Selectmen or Assessors to be in session at some convenient place, immediately preceding such meeting, for so long time as they shall judge necessary to receive evidence of the qualifications of persons, whose names have not been entered on the list aforesaid ; and to give public notice of the time and place of such meeting in the warrant for calling such town or plantation meeting. *ib.*

4. In any town where the number of qualified voters shall exceed two thousand, it shall be the duty of the Selectmen of such town to be in session at some convenient place, on the day immediately preceding such meeting ; and when this shall happen on Sunday, then on the Saturday immediately preceding such meeting and for a time as much lon-

* In addition to the duty required by law to be performed by the Aldermen of cities, in relation to correcting the list of voters, it shall be and hereby is made their duty, on all days of election in their respective cities, to be in session from nine o'clock in the forenoon to one o'clock in the afternoon, at some central and convenient place therein, of which notice shall be given in the warrant calling the meeting, for the purpose of receiving evidence of the qualification of voters whose names have not been entered upon the Ward lists ; and on satisfactory evidence being produced by any inhabitant that he is qualified to vote, and that his name is not borne upon either of the Ward lists, it shall be the duty of said Aldermen to make out and deliver to such inhabitant a certificate, directed to the Warden of the Ward in which said inhabitant has a right to vote, certifying that such person has such right, and directing said Warden to enter the name of such person upon his Ward list ; and upon receiving such certificate it shall be the duty of such Warden to add the name of such person to his said list, and permit such inhabitant to vote in the same manner as if his name had been previously placed upon said list. *ch.* 300, s. 2. March, 1837.

ger, previous to said day, as they shall judge necessary, receive the evidence of the qualifications of persons mentioned in the first section of this Act. *ch. 115, s. 2.*

5. The Selectmen of the several towns in this State having more than three thousand inhabitants by the last census shall have power to be in session for the purpose of receiving evidence of the qualifications of the electors of State officers in said town, and correcting the list thereof, for time not exceeding two days, the last of which two days shall be at least two days previous to the twentieth day of August annually, the time and place of said session to be notified in the same manner, that town meetings are required to be notified by said town. And the Selectmen of such towns are required to be in session for the purpose of correcting the list of electors on the Friday and Saturday next preceding the second Monday of September annually, and are also required to give notice of the time and place of such session in the warrant for summoning the meeting to be held for the choice of State officers on said second Monday of September: and the provisions of this act shall extend and be applicable to the city of Portland. *Statute, 1838 ch. 41.*

6. It shall be the duty of the Selectmen of each town and of the Assessors of every plantation in this State, on or before the twentieth day of August, annually, to deposit in the office of the town or plantation Clerk, and also to post up, in one or more public place or places in their town or plantation, the list of voters, required to be prepared by the first section of an Act [*ch. 115,*] entitled "An Act regulating elections," passed March 19, 1821. *ch. 518, s. 1.*

7. After said list of voters shall have been prepared, as required by the first section of the Act aforesaid, it shall not be lawful for the Selectmen of towns or Assessors of plantations, to alter said list by adding thereto, or striking therefrom, the name of any person, except at their sessions required to be held by the first and second sections of the Act aforesaid. And it shall be the duty of Selectmen of towns and Assessors of plantations, at their sessions aforesaid, to place on said list the name of any person, whom they know to be a legal voter, or who shall be proved to be such, whether he do, or do not personally appear and request the same to be done: *Provided however,* That it shall be lawful for the Selectmen of towns and the Assessors of plantations having less than five thousand inhabitants, to receive evidence of qualifications of voters, and to add their names

to said list at any time during the day of election.* *ch.* 518, *s.* 2.

8. The meetings for the choice of Representatives (in the State) shall be warned in due course of law, by the Selectmen of the several towns, seven days at least before the election.

Assessors of plantations have the powers and are subject to the duties of Selectmen. *Const. of Maine, Art. 4, p. 1, s. 5.*

9. It shall be the duty of the Selectmen of each town, and the Assessors of each plantation in this State, by their warrant, to cause the inhabitants of such towns and plantations, qualified according to the Constitution, to be notified and warned seven days at least, before the election, to assemble in their respective towns and plantations, on the second Monday of September annually, to give in their votes for Governor, Senators and Representatives, as the Constitution requires; such meeting to be warned in the manner there legally established for calling other town and plantation meetings: and at the meetings called for the purposes aforesaid, such proceedings shall be had as the Constitution requires. *ch.* 115, *s.* 4.

(c) Proceedings at, and subsequent to, elections.

§ 1. No meeting for the choice of Governor, Senators and Representatives in the Legislature or in Congress shall be opened at an earlier hour than eleven of the clock of the forenoon of the day of election; provided that any such meeting in any town where the number of the qualified voters shall exceed five hundred, may be opened at an earlier hour at the discretion of the Selectmen of such town. *ch.* 115, *s.* 3.

2. It shall be the duty of the Selectmen of towns, and the Assessors of plantations, to be provided with, and have a complete list of voters at every meeting for the choice of

* It shall be lawful for, and hereby is made the duty of the Selectmen of towns and Assessors of plantations in this State, having more than five thousand inhabitants to receive evidence of the qualifications of voters and to add the names of such as they judge to be qualified to the list of voters, at any time before one of the clock in the afternoon of the day of any election in their respective towns and plantations, any thing in the several Acts to which this is additional to the contrary notwithstanding. *ch.* 300, *s.* 1. March, 1837.

Governor, Senators and Representatives in the Legislature or in Congress. *ch. 115, s. 1.**

3. The Selectmen of the several towns shall preside impartially at meetings for the choice of Representatives in the Legislature, receive the votes of all the qualified electors present, sort, count, and declare them in open town meeting, and in presence of the town Clerk. *Const. Art. 4, p. 1, s. 5.*

4. If the Selectmen of any town or a majority of them, or if the Assessors of any plantation or a majority of them, shall be absent from any meeting of their town or plantation, duly warned for the choice of Governor, Senators, Representatives to the State Legislature or to Congress, Register of Deeds or County Treasurer, or being present at such meeting shall refuse or neglect to act as such, and to perform the duties required of them in receiving the votes of the electors, sorting, counting and declaring the same, it shall be lawful for the electors, at such meeting, to make choice of so many Selectmen or Assessors *pro tempore*, as shall be necessary to supply the places of those absent or neglecting or refusing to act and perform their duties as aforesaid. And it shall be the duty of any of the Selectmen of such town or Assessors of such plantation, and in case of their neglect, or refusal or absence, it shall be the duty of the town or plantation Clerk to preside in such meeting and perform all the duties, with all the rights of a moderator, during the choice of such officers *pro tempore*. And said Selectmen or Assessors *pro tempore*, having accepted the trust, shall be sworn faithfully to discharge the duties of their said office in all things pertaining to said meeting and election, and in making record and return thereof, as the law and constitution may require, and, in all things relative to said meeting, election, record and return, shall have and exercise all the rights, and be subject to all the duties and liabilities of standing Selectmen or Assessors of such town or plantation. *Stat. 1833, ch. 35, s. 1.*

5. If any of the Selectmen or Assessors of any town or plantation, whether standing or *pro tempore*, shall wilfully neglect or refuse to act, or to perform any of the duties required of them, relative to the election of any of the officers

* If the Wardens of any city, the Selectmen of any town, or the Assessors of any plantation, shall neglect or refuse to keep a check list and to use the same, as is provided in an Act to which this is additional, passed March twenty-ninth, A. D. one thousand eight hundred and twenty-one, they shall forfeit and pay for each and every offence the sum of one hundred dollars. *ch. 348, s. 1, March, 1838.*

above named, or relative to record and return thereof, he or they so offending shall forfeit and pay to the use of the State a penalty, not more than Five Hundred nor less than One Hundred Dollars, and suffer imprisonment not longer than nine nor less than three months, or either of said punishments according to the aggravation of the offence. *ch. 35, s. 2.*

6. The towns and plantations organized by law, belonging to any class provided in the Constitution, shall hold their meetings at the same time in the respective towns and plantations, and the town and plantation meetings in such towns and plantations shall be notified, held and regulated, the votes received, sorted, counted and declared in the same manner. *Const. Art. 4, p. 1, s. 5.*

7. The meetings for the election of Senators shall be notified, held and regulated, and the votes received, sorted, counted, declared and recorded, in the same manner as those for Representatives. *Const. Art. 4, p. 2, s. 3.*

The meetings for the election of Governor shall be notified, held and regulated, and votes shall be received, sorted, counted, declared and recorded in the same manner as those for Senators and Representatives. *Const. Art. 5, p. 1, s. 3.*

8. The Selectmen and Assessors, authorized and required to preside in any meeting of a town or plantation, which shall be convened for the election of Governor, Senators and Representatives in the Legislature of this State, shall have all the powers which are legally vested in the Moderator of town meetings for the regulation thereof. And in such meetings, the Selectmen or Assessors presiding, shall have power, and it shall be their duty to prevent and refuse the vote of any person not qualified to be an elector, whose qualifications shall be determined according to the Constitution of this State, or the Constitution of the United States, as the case may be. *ch. 115, s. 5.*

9. Whenever a meeting is held in any town or plantation for the purpose of choosing Governor, Senators and Representatives, the Selectmen or Assessors presiding at such meeting be, and hereby are directed to call on the voters in such meeting qualified for choosing such officers, requiring each of them to give in their votes on one list for as many different persons as are then to be chosen to the office of Senators. *s. 6.*

10. No person shall be permitted to give in his vote at any meeting of a town or plantation, holden for an election to any of the offices aforesaid, until the Selectmen of such

town, or the Assessors of such plantation, presiding at such election, shall have had opportunity to inquire his name, and found the same in the list aforesaid.* *ch. 115, s. 7.*

11. It shall not be lawful for the Selectmen or Assessors of any town or plantation, presiding at any meeting for either of the elections aforesaid, to receive any vote undelivered in writing† by the voter in person. *s. 9.*

12. The Selectmen and Assessors, authorized and required to preside in any meeting of a town or plantation, which shall be convened for the election of Governor, Senators or Representatives in the Legislature of this State, Representative in Congress, County Treasurer and Register of Deeds are hereby required to call on the legal voters, in such meeting, directing them to give in their votes on one list, or ballot, for the officer or officers to be chosen, or for so many thereof as the person voting shall determine to vote for, by signing on the ballot against the name of each person voted for, the office to which each is intended to be elected. *Provided however*, that in any town not classed with another for the choice of a Representative, they may vote for one Representative to the State Legislature, on a separate ballot if the town shall by vote so determine; and the ballot aforesaid shall be written in the mode usually called writing or in that denominated printing on clean white paper. *518, s. 3.*

13. Fair copies of the lists of votes for Senators shall be attested by the Selectmen and town Clerks of towns, and the Assessors and Clerks of plantations, and sealed up at the open town and plantation meetings; and the town and plantation Clerks respectively shall cause the same to be delivered into the Secretary's office thirty days at least before the first Wednesday in January. — The votes for Governor shall be sealed and returned into the Secretary's office in the same

* Any person wilfully voting contrary to the provision of this section, or who shall give any false answer to such Selectmen or Assessors, being duly thereof convicted, shall forfeit and pay a fine not exceeding thirty dollars, for each and every offence, according to the nature and aggravation thereof. *s. 7.*

† Any elector who shall give in more than one vote in any one election, and any person who shall be disorderly in any such meeting, shall forfeit a sum not exceeding fifty dollars, nor less than ten dollars according to the aggravation of each offence. *s. 10.*

manner, and at the same time, as those for Senators. *Const. Art. 4, p. 2, s. 3. Art. 5, p. 1, s. 3.**

14. Whenever the original returns of the votes of any town or plantation, for Governor, Senators, or Representatives in Congress, shall in any way be lost or destroyed, it shall be the duty of the Selectmen and Clerk of such town, and Assessors and Clerk of such plantation as soon as such loss and destruction shall be discovered, or as soon after as may be, to cause a copy of the record of the meeting of the town or plantation, at which such votes were given, to be made with a certificate upon the same sheet, that the same is a true copy of the record of such meeting, that it truly exhibits the names of all the persons voted for, as Governor, Senators or Representatives in Congress, (as the case may be) and the number of votes given for each person voted for at the meeting mentioned in said record, and the said copy contains all the facts, which were stated in the original return of votes lost or destroyed; and the Selectmen and town Clerk, or the Assessors and plantation Clerk, who were present at such meeting, and attested the original return, so lost or destroyed, shall sign said certificate, designating their office against their names, as in the original return, and shall make oath, or affirmation, that said copy and certificate are true, before some Justice of the Peace for the county in which they live, who shall make his certificate thereof upon the same paper; which copy and certificate shall be sealed up, and delivered to the Secretary of State, with the nature of the contents written on the outside, and it shall be the duty of the Clerk of such town, or plantation, to cause the same to be delivered into the office of the Secretary of State, as soon as may be. *ch. 518, s. 6.*

15. A fair copy of the list of the persons voted for, with the number of votes for each person against his name, shall be attested by the Selectmen and town Clerk, and delivered by said Selectmen to each Representative to the Legislature within ten days next after such election. *Const. Art. 4, p. 1, s. 5.*

* It shall be the duty of the several Clerks of cities, towns and plantations in the State to deliver or cause to be delivered at the office of the Secretary of State the returns of votes given in their respective cities, towns and plantations for Governor, Senators and Representatives to Congress, within thirty days next succeeding such election, or to transmit the same directed to the Secretary of State by mail, by depositing the same in some Post Office within this State within fourteen days next succeeding the election, on pain of forfeiting the sum of fifty dollars. *ch. 249, s. 1. April 2, 1836.*

16. Whenever the qualified electors of any town, not being classed with any other town or plantation, shall not, by the judgment and decision of the Selectmen thereof, succeed, at the annual meeting, held on the second Monday of September, in making choice of the Representative or Representatives to the State Legislature, to which such town may be entitled, it shall be the duty of such Selectmen to declare such judgment and decision to the meeting on that day, within a reasonable time after declaring the votes on the last trial, and likewise to give notice to said meeting, that, in their judgment, further trial to make a choice cannot conveniently be had on that day; of which decision and notification thereof to the meeting the Clerk shall make a record: *Provided, however*, that a new balloting shall not be commenced at a later hour than six o'clock in the afternoon. And thereupon the said meeting shall be considered to be adjourned, and by force of this Act is adjourned to the Monday then next ensuing, at the same hour of the day at which, by the warrant, the meeting was convened on the said second Monday of September, of which adjournment said Selectmen shall make proclamation to the meeting. And at said adjournment, further trial or trials shall be had, and if, in the judgment of the Selectmen, no choice shall then be effected, like proceedings as herein before prescribed shall be had and the meeting shall be considered as further adjourned to the next ensuing Monday at the hour before named, and so onward from Monday to Monday, until the choice be effected and declared. *Stat. 1833, ch. 35, s. 3.*

17. Whenever the Selectmen of any town, not classed, shall be duly notified, or whenever it shall come to their knowledge that the seat of any Representative thereof has been vacated by death, resignation or otherwise, it shall be their duty forthwith to issue their warrant, giving seven days notice at least, for a meeting of the qualified electors of said town to choose some person to supply such vacancy. And if no choice be effected on the day of such meeting, the said meeting shall stand adjourned from week to week, to the same day of the week and to the same hour of the day, designated in the warrant for calling such meeting, in like manner as provided in the third section of this Act. *s. 4.*

18. Whenever in any district, the Selectmen of the oldest town, or the Assessors of the oldest plantation of said district, if there be no town therein, shall be duly notified, or *whenever it shall come to their knowledge that the seat of the Representative of such district has been vacated as afore*

said, it shall be the duty of such Selectmen or Assessors to appoint a day for another election to supply such vacancy, and notify the same to the Selectmen and Assessors of the other towns and plantations in said district. And in the appointment of such day regard shall be had to the length of time requisite for warning the necessary meetings. And if, in the judgment of a majority of the Selectmen and Assessors met to compare the lists of votes given on such trial, no choice shall have been effected, notice may be given for new meetings to be held just three weeks from the time of said first meeting, and so onward, from three weeks to three weeks, until a choice shall have been effected. *ch. 35, s. 5.*

19. The Selectmen of towns and Assessors of plantations, classed, shall within four days next after meeting for the choice of Representatives in the Legislature, meet at some place, to be prescribed and notified by the Selectmen or Assessors of the eldest town or plantation, in such class, and the copies of said lists shall be then examined and compared; and in case any person shall be elected by a majority of all the votes, the Selectmen or Assessors shall deliver the certified copies of such lists to the person so elected, within ten days next after such election.* *Const. Art. 4, p. 1, s. 1.*

20. But in case no person shall have a majority of votes, the Selectmen and Assessors shall, as soon as may be, notify another meeting, and the same proceedings shall be had at every future meeting until an election shall have been effected. *ib.*

21. When towns and plantations are or may be classed for the purpose of choosing a Representative, it shall be the duty of the Selectmen of the oldest town in said district or the Assessors of the oldest plantation, if there be no incorporated town in such district, to notify the Selectmen of towns, and the Assessors of plantations in their respective districts, of the time and place of meeting for the purpose of examining copies of the lists of votes for Representative in the manner prescribed in the Constitution; and when thus assembled the Selectmen and Assessors of towns and plantations, or the Assessors of plantations, which may be so classed, shall by a majority of votes determine the place for their future meeting in said district, to examine copies of lists of votes for a Representative in said district, which place shall continue to be the same annually until otherwise ordered. *ch. 518, s. 9.*

* See page 42, s. 8.

22. In towns and plantations which are or may be classed for the purpose of choosing a Representative ; if on comparing the lists of votes, it shall appear that no person has been elected, it shall be the duty of the Selectmen and Assessors respectively to notify and warn another meeting to be held on the third Monday, next following the day of the annual meeting : and all subsequent meetings, in such towns and plantations, which may be notified for electing a Representative, shall be held on the third Monday, next following the day of election, at which no choice shall have been effected. *ch. 525, s. 1.*

23. Whenever any unincorporated place classed, in any Representative district, with any town or towns adjacent thereto, it shall be lawful for any person, resident in said unincorporated place, between the first and twentieth day of May in any year, to present a list of his rateable poll and estate, as it existed on said first day of May, to the Assessors of either of said towns, who may require the same to be verified in the same manner as if presented by an inhabitant of said town. And it shall be the duty of said Assessors, after having made and finished the State and County tax of said year for said town, to subjoin thereunto an assessment against said person, to the amount of his proportion of the State and county tax, ascertained by said inventory at the same rate as an inhabitant would be assessed in said tax upon a similar inventory. And the same remedy shall exist for the collection of said tax as if said person were an inhabitant of said town. And said assessments shall be legal, although, by reason of the tax against said non-resident the total thereof may exceed the whole amount with the five per cent. overlay, which said assessors were authorized by law to assess. And the taxes thus assessed upon said person, resident in said unincorporated place, shall enure and belong to the town in which the same were assessed. *Stat. 1833, ch. 26, s. 1.*

24. The person, assessed as aforesaid, shall be entitled to give in his vote, in said town in all the State elections of said year. And the Selectmen of said town are required to insert his name in the list of voters, which may be prepared for the regulation of meetings, at which such elections are to be had, in the same manner as if he were a resident of said town ; provided such person continues to have his residence in said unincorporated place, and is otherwise a qualified elector. *s. 2.*

(d) Penalties on town and plantation officers.

§ 1. The Selectmen of any town, and the Assessors of any plantation in the several counties of this State, who shall neglect to call meetings of the inhabitants and others privileged there to vote for the election of Governor, Senators and Representatives, and to give due warning of the time and place of such meetings, as required by the Constitution of this State; or who shall refuse or neglect to preside in any such meetings, or to receive the votes of the qualified electors present; or who shall neglect to ascertain, declare and certify the number of votes; or who shall wilfully make any false declaration or certificate thereof, to the prejudice of the rights of the electors; shall forfeit a sum not exceeding eighty dollars, nor less than forty dollars; to be recovered from each Selectman or Assessor, who shall offend in the premises, according to the aggravation of each offence. *ch. 115, s. 12.*

2. Every town Clerk and the Clerk or Assessors of any plantation, present at such meeting, who shall neglect or refuse to make a fair record of the votes; or a fair copy of such record; or to attest the same; or who shall refuse or neglect to make due and seasonable return thereof into the Secretary's office, as required by the Constitution of this State; shall forfeit a sum not exceeding eighty dollars, nor less than forty dollars for each offence. *s. 12. **

3. The Clerk of any town or plantation, Selectmen of any town, or the Assessors of any plantation in any Representative District within this State, who shall wilfully or negligently refuse or neglect to do and perform all or any of the duties prescribed to them by the Constitution of this State, shall forfeit and pay for each and every such offence a fine not exceeding two hundred dollars, nor less than thirty dollars; to be recovered by indictment in any Court proper to try the same, one half to the use of the State, and the other half to the use of the complainant.* *ch. 187.*

4. If any Selectmen or Assessors of any town, or the Assessors of any plantation, shall knowingly and corruptly neglect or refuse to comply with, or to perform the several duties respectively required of him or them, as pointed

* It is made the duty of the Secretary of State, when returns of votes are not seasonably delivered at his office, to notify the County Attorney; and of him to demand and prosecute delinquent officers for fines for their neglects, to the use of the State. *ch. 518, s. 4.*

out in and by the first section of this Act,* he shall, for each and every such offence, forfeit and pay a fine not exceeding fifty dollars, according to the nature and aggravation thereof. *ch. 115, s. 11.*

5. It shall be the duty of Selectmen and Assessors on or before the 20th of August, annually, to deposit in the office of the town or plantation Clerk, and to post up in one or more public places, the list of voters required by the act passed March 19, 1821, *ch. 115*, and the Selectmen of any town and the Assessors of any plantation, who shall wilfully neglect or refuse to perform the duty aforesaid, shall, for each and every such offence severally forfeit and pay a sum not less than fifty dollars nor more than one hundred dollars; and for each day they shall neglect to perform said duty, after the twentieth day of August, and until the election then next ensuing, they shall severally forfeit and pay the sum of thirty dollars. And the sum or sums so forfeited, shall be recovered to the use of such town, or plantation, in an action of debt, in the name of the inhabitants thereof; and it shall be the duty of the Treasurer of such town or Plantation, if he be not one of such delinquent officers, and if he be one of them, then it shall be the duty of one of the Constables of such town or plantation at the request of any citizen thereof to cause such action to be commenced and prosecuted to final judgment. *ch. 518, s. 1.*

6. Whenever the Selectmen of any town or the Assessor of any plantation, or the major part of them shall seasonably issue their warrant to any Constable, or other person appointed for that purpose in such warrant, and inhabiting in such town or plantation, to summon the qualified electors of such town or plantation, to assemble in such town or plantation, to give in their votes for Governor, Senators or a Representative to the Legislature of this State, or for a Representative to Congress, a County Treasurer or Register of Deeds, and such Constable or other person so appointed shall wilfully refuse or neglect to summon such electors, in the manner legally established in such town or plantation, for calling town or plantation meetings, to assemble at the time and place and for the purposes specified in such warrant, or to make return of such warrant, with his doings thereon, to said Selectmen or Assessors, at or before the time appointed for the electors to assemble for the purposes aforesaid, such Constable or other person aforesaid, so refusing or

* For provisions of this section, see pages 112, 113, 114.

neglecting, shall forfeit and pay for each and every such offence a fine not exceeding two hundred dollars nor less than thirty dollars, to be recovered by indictment, in any court proper to try the same, one half to the use of the State, and the other half to the use of the complainant. *ch. 472.*

7. Any person, who is by law authorised to preside at any meeting, or to receive votes at any meeting which may be holden for the choosing of Governor, Senators and Representatives to the Legislature, or any town officers, shall knowingly receive the vote of any person who is not qualified to vote agreeably to the Constitution and laws of this State, in choosing as aforesaid; such persons so presiding or receiving any vote as aforesaid, shall forfeit and pay one hundred dollars; to be recovered by information, to be filed and prosecuted by the Attorney General, in the Supreme Judicial Court, or by indictment in said Court. *ch. 115, s. 8.*

8. It shall not be lawful for the Selectmen or Assessors of any town or plantation, presiding at a meeting for either of the elections aforesaid, to receive any vote, unless delivered in writing by the voter in person: and the Selectmen or Assessors, who shall offend herein shall severally forfeit and pay a sum not exceeding one hundred dollars. *s. 9.*

9. If the Moderator or Selectmen presiding at any town meeting, without the consent of the voter, shall read or examine or permit any other person to read or examine the name or names written on his ballot or ticket, with a view to ascertain the name of the candidate voted for, before the poll is closed, the Moderator, Selectmen or Selectman so offending, shall each of them on conviction, forfeit and pay to the use of such town, the sum of twenty dollars, to be recovered by indictment in any Court proper to try the same. *ch. 114, s. 4.*

10. No ballot which shall be on colored paper of any description, or which shall bear any distinguishing mark or figures besides the names of the persons voted for and of the offices to which they are intended to be elected, shall be received by any Selectmen or Assessors, on pain of forfeiting for each offence the sum of fifty dollars, to be recovered in the manner and for the use provided in the first section of this act. *ch. 518, s. 3.*

11. Any person to whom the returns of votes of any town or plantation, for Governor, Senators, or Representatives in Congress, shall be entrusted by the Clerk for the purpose of forwarding them to the office of the Secretary of State, who shall wilfully neglect to use all proper means to

cause them to be so delivered, within the time required by the Constitution and laws of the State, shall forfeit and pay a sum, not less than one hundred dollars nor more than \$500, to be recovered to the use of the State, by indictment in the Court of Common Pleas or Supreme Judicial Court; or upon conviction of said offence in manner aforesaid such offender may be punished by imprisonment for a term not less than two nor more than six months, at the discretion of the Court before which such conviction shall be had. *ch. 518, s. 7.*

12. Any Selectmen, Assessors or Clerk, who shall neglect or refuse on notice of the loss or destruction of the returns of votes of their town or plantation for Governor, Senators or Representatives in Congress, to perform the duty required by this section* shall forfeit and pay a sum not less than \$100 nor more than \$500, to be recovered by indictment, in the Court of Common Pleas or Supreme Judicial Court, to the use of the State, and any Selectman, Assessor or Clerk who shall make a false certificate, in the case aforesaid, and make oath or affirmation of the truth thereof, shall, upon conviction thereof in the Supreme Judicial Court, suffer all the pains and penalties by law provided against the crime of perjury, and shall, after such conviction be disqualified from holding any office under the Constitution and laws of this State for the term of ten years. *s. 6.*

13. It shall be the duty of Selectmen and Assessors of towns and plantations, classed for the purpose of choosing a Representative, to notify and hold their meetings for the purpose of examining and comparing copies of the lists of votes within the time and in the manner, provided in the Constitution of this State and in an act passed March 31 1831, (*ch. 518*); and also, that the Selectmen and Assessors shall be liable to the same penalties for a neglect to perform the duties aforesaid, which are provided in and by said act for a neglect to perform the duties therein specified. *ch. 525, s. 2.*

14. In no case, shall any town or plantation officers incur a penalty, or be made to suffer in damages, by reason of his official acts, or neglects, unless he shall be unreasonable, corrupt, or wilfully oppressive: *Provided however* that the neglect to prepare the list of voters, to deposit it in the town Clerk's office, or to post it up, as by this act re-

* *It is made the duty of the Secretary of State to make a list of towns and plantations whose votes for Governor and Senators are not seasonably returned and publish it in the State paper. ch. 518, s. 8*

and the neglect to call town or plantation meetings, or to cause returns of votes to be delivered to the office of the Secretary of State, as required by the constitution and laws of the State, or to make the records required, shall be deemed unreasonable, unless the contrary shall be made to appear. *ch. 518, s. 5.*

Elections of county officers, involving duties of town officers.

There shall be chosen by ballot, in each county of this State, by such persons as are qualified to vote representatives, at the town and plantation meetings, on the second Monday of September, in the year of our Lord, one thousand eight hundred and twenty-one and every five years hence following, some discreet and suitable person to be Register of Deeds. And the Selectmen of towns, and Justices of sessions of plantations shall receive, sort and count the votes of the qualified electors present, and declare the same; and the town or plantation Clerk shall form a list of the persons voted for, with the number of votes for each person, and his name, and having recorded the same, shall transmit a certified copy of the record to the Clerk of the Court of Sessions within the county, on or before the first day of September of said Court next after the said month of September. *ch. 98, s. 1.*

Whenever it shall happen that no person shall have a copy of all the votes legally returned, for a Register of Deeds in any county within this State, it shall be the duty of the Court of Sessions to issue their warrants to the Selectmen of towns, and to the Assessors of plantations, to call the qualified electors, to vote for a Register of Deeds; and the votes shall be received, sorted, counted and added, and lists thereof recorded and certified to the Court of Sessions, in the manner prescribed in the first section, and the certified lists shall be returned to the Clerk of the Court of Sessions previous to the time to which said Court adjourn, for the purpose of examining the same. *s. 2.* Upon the death, resignation, or removal of any Register of Deeds, two or more Justices of the Sessions, living near the shire town of the county, shall issue their writs, directed to the Selectmen of the several towns, and Assessors of plantations, within such county, direct-

ing them to convene the inhabitants of their respective towns and plantations, qualified as aforesaid, and to proceed to the choice of some person qualified as aforesaid, to fill up the vacancy. *ch. 98, s. 5.*

4. There shall be annually chosen in each county within this State, on the second Monday of September, by the written votes of such persons as are by the Constitution qualified to vote for Representatives in the several towns and plantations, a discreet suitable person, being a freeholder and resident in the same county, for a county Treasurer; the votes to be counted and sorted in the town or plantation meeting by the Selectmen or Assessors thereof, and town and plantation Clerk; the names of the persons voted for, and the number each person had, shall be recorded by the Clerk in the town or plantation book, and an attested copy of such record shall be transmitted under seal to the next Court of Sessions to be held within and for the same county, on the first day of the Court's sitting; there to be opened and compared with the like returns from the several towns and plantations in such county. *ch. 99, s. 1.*

D.—Elections of town officers,* and the prevention of intemperance at elections.

§ 1. Every person within this State qualified by the Constitution of this State to vote for Governor, Senators and Representatives, in the town or plantation where he resides shall be entitled to vote in the election of all town or plantation officers within such town or plantation. And any person who shall be convicted of voting in two or more towns or plantations for the choice of town or plantation officers, at any annual meeting thereof, shall be punishable by fine not exceeding one hundred dollars, to be recovered by indictment before any court of competent jurisdiction within this State. *Stat. 1833, ch. 2, s. 1.*

2. Every male citizen of this State, of twenty-one years of age and upwards, except paupers and persons under guardianship, who has resided within any town or plantation for one year next preceding his voting and during said term has been taxed for his poll, or any estate in any tax

* For choice of plantation officers, the manner of their being qualified and the method of calling plantation meetings, see Plantations.
For the choice of parish officers, see Parishes.

voted to be raised by said town or plantation, shall be entitled to vote in such town or plantation in the election of all town or plantation officers, and in all other town or plantation affairs; *Provided*, Whenever the inhabitants of any town are legally assembled to act on any subject relating exclusively to parishes; no person, who is not a member of said parish and liable to be assessed for parochial charges, shall be permitted to vote in such meetings. *ch. 114, s. 1.*

3. It shall be the duty of the Assessors of each town within this State, on or before the twentieth day of February annually, to make out a correct and alphabetical list of all such inhabitants of their respective towns as may be qualified by law to vote in the choice of town officers; and it shall be the duty of said Assessors to be in session at some convenient place, to be by them notified, as provided in the first section of this act, * on the day next preceding the day of the annual election of town officers, in the month of March or April annually; unless the same happen on the Lord's day, in which case the Assessors shall be in session on Saturday preceding, or on the morning of the day of election, as aforesaid, as the Assessors think proper; for so long a time as they shall judge necessary, to receive evidence of the qualifications of persons whose names have not been entered on said list. *ch. 115, s. 14.*

4. The citizens aforesaid, in any town, shall, in the month of March or April annually, assemble at such time and place in the same town, as they shall be notified to attend by the Constable or Constables of the town, or such others as the Selectmen shall appoint to notify the same. *ch. 114, s. 1.*

5. No person shall be permitted to give in his vote or ballot at any meeting for the choice of town officers, until the person presiding at such meeting shall have had opportunity to inquire his name, and shall have ascertained that the same is in the list aforesaid, and shall have had time to check the same. Any person wilfully voting contrary to the provisions of this section, or who shall give any false answer or false name to the Assessors, when receiving evidence of the qualifications as aforesaid, or to the person presiding in such town meeting, shall forfeit and pay a fine not exceeding thirty dollars, for each and every such offence. *ch. 115, s. 15.*

* The first section requires them to give public notice of the time and place of such meeting in the warrant for calling town meeting.

If any person, at any meeting for the choice of town officers, shall knowingly give in more than one vote or list, for any officer or list of officers then voted for at any such meeting, he shall forfeit and pay a fine not exceeding one hundred dollars. *ch. 115, s. 16.*

6. The election of Moderator of such meetings, Town Clerks, Selectmen and Assessors, shall be by written ballots, and all other town officers by ballot or such other method as the voters agree upon. *ch. 114, s. 1.*

7. At every town meeting, a Moderator shall be first chosen by a majority of voters, and during the election of the Moderator for any town meeting, the town Clerk shall preside, and have all powers and do all the duties which the Moderator of a town meeting by law has and does perform. *s. 1, 3.*

8. The citizens aforesaid shall then and there by a major vote, choose three, five or seven able and discreet persons of good conversation, inhabiting in the town, to be Selectmen and Overseers of the poor, where other persons shall not be particularly chosen to that office (which any town may do if they shall think it necessary and convenient) three or more Assessors, two or more judicious persons for Fence Viewers, Treasurer, Surveyors of Highways, Surveyors of Lumber, Wardens, Tythingmen, Sealers of Leather, Measurers of Wood, Clerks of the Market, Constables, and other usual town officers: and no person shall be obliged to serve in any town office two years successively. *ch. 114, s. 1.*

9. Every Constable, at the expiration of the term of ten days from the time of receiving a warrant to notify the persons chosen into office, of whom an oath is by law required, to appear before the town Clerk to take such oath, shall make a return into the Clerk's office of the same town, of the warrant to him committed as aforesaid, with his doings thereon, for a neglect of which he shall forfeit and pay the sum of six dollars, to be to the use of the town: the Constable to be allowed such reasonable sum for his services upon this and other town business as the the inhabitants shall agree upon. *s. 1.**

10. When by reason of non-acceptance, death or removal of any person chosen to office in any town at the annual meeting for the choice of town officers, or at any other time, or by reason of a person's becoming non compos, there is a vacancy, or want of such officers, the town being orderly

* See page 41, s. 2.

assembled in the manner this act directs,* may proceed to a new choice of officers to supply and fill such vacancy; and the person or persons, thus chosen and sworn before the town Clerk or a Justice of the Peace, (in case an oath of office is by law required) shall have the same power and authority to discharge the duties of the office as though chosen at the annual meeting for the choice of town officers. *ch.* 115, s. 2.

11. The Selectmen or Assessors of any town aforesaid, who shall refuse or neglect to do and perform all or any of the duties prescribed to them by the fourteenth section of this act, shall forfeit and pay for each and every such offence, a fine not exceeding two hundred dollars. *s.* 17.

12. No person shall be allowed to sell or expose to sale within the limits of two hundred rods from any place where the inhabitants of any town or plantation in this State shall or may be assembled for the purposes of State, County, Town, or Plantation elections, or other public business, any rum, brandy, gin, wine or any other strong liquors, or erect or open any booth or tent for that purpose; and if any such liquors or any carriages or vessels containing the same, or any booths or tents shall be erected within the limits aforesaid, the same shall be liable to be seized and taken into custody by any Justice of the Peace, Selectmen of the towns or Assessors of the plantations where the same vessels, liquors or materials may be for the purposes aforesaid, who may be present or have the knowledge of the violation of any of the provisions aforesaid of this act; and all such liquors, vessels, carriages and other materials, above mentioned, may be held and detained until twenty-four hours after the adjournment of any public meeting held as aforesaid, then to be delivered on demand, to the lawful owners thereof or the person from whom said articles were taken, after payment of three dollars for their safe keeping: *Provided however*, that no part of this act shall be so construed as to prohibit any licensed innholders or retailers from the pursuit of their ordinary business in their usual place of prosecuting the same. *ch.* 333, s. 1.

13. If the owner or owners of the articles above mentioned, or some person or persons by them duly authorized, shall not, within twenty-four hours from the time when the same shall have been seized as aforesaid, make demand thereof, of the person having them in custody as aforesaid, the same shall be exposed to sale at auction, by the officer

* For the manner of calling special town meetings, see Selectmen.

seizing them, and shall be sold to the highest bidder, at such auction, after forty-eight hours notice of the time and place of sale shall have been posted in two or more public places in the town or plantation, where the seizure aforesaid shall be made; and the proceeds of sale, after the expenses of taking and keeping, and of such sale are deducted, shall be paid over to the owner or owners, or the person from whom the articles were taken, on demand. *ch. 333, s. 2.*

E—Forms.

Warrant to warn town meeting for choice of Governor, Senators and Representatives in the Legislature.

§ 1. To J. L. one of the Constables of the town of B. You are hereby required, in the name of the State of Maine, to notify and warn the inhabitants of said town, qualified according to the Constitution, to assemble at on the second Monday of September next, at of the clock, in the noon, to give in their votes for Governor, for Senators, and for (one or more) Representatives in the Legislature.

Given under our hands at said B. the (the date must be seven days at least before the election) day of

A. D. 184 .

C. C.

J. P.

E. R.

} Selectmen of B.

Officer's return thereon.

B. , 184 .

2. Pursuant to the within warrant, I have notified and warned the inhabitants of said town qualified as therein expressed, to meet at the time and place, and for the purposes within mentioned.

J. L. Constable of B.

Return of votes for Governor to Secretary's office.

3. STATE OF MAINE.

At a legal meeting of the inhabitants of the [town or plantation, as the case may be] of , in the county of , qualified by the Constitution to vote for Governor, held on the second Monday of September, being the day of

of said month, in the year of our Lord, one thousand eight hundred and forty , the said inhabitants gave in their votes for a Governor, and the same were received, sorted, counted and declared in open [*town or plantation, as the case may be*] meeting, by the [*Selectmen or Assessors, as the case may be*] who presided; and in presence of the [*town or plantation, as the case may be*] Clerk, who formed a list of the persons voted for, and made a record thereof as follows, to wit.

For ———

A. B. } [*Selectmen or Assessors of ———,*
C. D. } *as the case may be.*
E. F. }

Attest, G. H. } [*Town or plantation, as the case may be*] Clerk.

NOTE. The Selectmen or Assessors will designate on the back of the return, that the votes were given for Governor; and the number of votes given in, must be in writing, not in figures. Resolve, March 13, 1821.

Return of votes for Senators, &c.

4

STATE OF MAINE.

At a legal meeting of the inhabitants of the [*town or plantation, as the case may be*] of , in the county of , qualified by the Constitution to vote for Senators held on the second Monday of September, being the day of said month, in the year of our Lord, one thousand eight hundred and forty , the said inhabitants gave in their votes for Senators for the county of and the same were received, sorted, counted and declared in open [*town or plantation, as the case may be*] meeting, by the [*Selectmen or Assessors as the case may be*] who presided; and in the presence of the [*town or plantation, as the case may be*] Clerk, who formed a list of the persons voted for, and made a record thereof as follows:

For ———

A. B. } [*Selectmen or Assessors of*
C. D. } *———, as the case may*
E. F. } *be.*

Attest, G. H. } [*Town or Plantation, as the case may be*] Clerk.

NOTE. After the superscription, the Selectmen or Assessors will state on the back of the return that the votes were given in for Senators ; and the number of votes given in, must be in writing, not in figures. Resolve, March 13, 1821.

Certificate of the election of Representatives in the Legislature.

5. STATE OF MAINE.

At a legal meeting of the inhabitants of the [town or plantation, as the case may be] of _____, in the county of _____, qualified by the Constitution to vote for Representatives, held on the second Monday of September, being the day of said month, in the year of our Lord one thousand eight hundred and forty _____, the said inhabitants gave in their votes for a Representative, to represent them in the Legislature of the State ; and the same were received, sorted, counted and declared in open [town or plantation, as the case may be] meeting by the [Selectmen or Assessors, as the case may be] who presided ; and in presence of the [town or plantation, as the case may be] Clerk, who formed a list of the persons voted for and made a record thereof as follows, to wit :

For ———

A. B.	} [Selectmen or Assessors of _____, as the case may be.]
C. D.	
E. F.	
G. H.	} [Town or Plantation, as the case may be] Clerk.

Attest,

NOTE. The number of votes given in, must be in writing, not in figures.

Return of votes for Representatives to Congress.

6. STATE OF MAINE.

At a legal meeting of the inhabitants of the town [plantation] of _____, in the county of _____, qualified by the Constitution to vote for Representatives in the Legislature of this State, held on the _____ day of _____, being the _____ day of said month, in the year of our Lord one thousand eight hundred and forty _____, the said inhabitants gave in their votes for a Representative [or Representatives] to represent the inhabitants of this State, in the Congress of the United States, for _____ District ; and the same were received, sorted and

counted and declared in open meeting, by the Selectmen [Assessors] who presided and in presence of the Clerk, who formed a list of persons voted for and made a record thereof as follows, to wit :

For ———

A. B. }
C. D. } [Selectmen or Assessors.]
E. F. }

Attest,

G. H. Clerk.

NOTE. The number of votes must be written at length and not put in figures.

Warning of meeting for choice of Register of Deeds and County Treasurer.

7. To J. L. one of the Constables of the town of B.

You are hereby required in the name of the State of Maine, to notify and warn the inhabitants of the said town of B. qualified to vote for Representatives, to meet at _____, on the _____ day of _____, at _____ of the clock, in the _____ noon, to give in their votes for a Register of Deeds, or, for a County Treasurer (or for both, as the case may be.)
Given under our hands this _____ day of _____ A. D. 184 .

C. C. }
J. P. } Selectmen of said B.
E. R. }

NOTE.—Return of officer to be similar to that in s. 2.

Warning of meeting for choice of town officers, or for other town affairs.

8. To J. L. one of the Constables of the town of B.

You are hereby required, in the name of the State of Maine, to summon and notify the inhabitants of said B. qualified to vote in town affairs to assemble at _____, on the _____ day of _____, at _____ of the clock in the _____ noon to act on the following articles, to wit ;

1st. To

2d.

Given under our hands, this _____ day of _____ 184 .

C. C. }
J. P. } Selectmen of said B.
E. R. }

ELECTIONS:

*Warrant of Selectmen or town Clerk to notify town officers
to take their oaths of office.*

9. To J. L. one of the Constables of the town of B.
(Seal.)

The persons named in the ensuing list were chosen into office at a meeting of the inhabitants of said town, held on the _____ day of _____; to wit:

* * * * *

You are hereby required, in the name of the State of Maine, within three days from the receipt of this warrant to notify and summon each of the said persons to appear before the Clerk of said town, [*if the Clerk sign the warrant, say, before me*] within seven days from the time you shall give such notice, to take the oath by law prescribed to the office into which they are severally chosen.

Hereof take notice and make return of this warrant with your doings thereon, at or before the expiration of ten days from the time of your receiving the same.

Given under our hands and seals, (or if signed by Cleri
under my hand and seal) this day of 184 .

C. C. } Selectmen of said
J. P. } town
or J. M. Town Clerk.

Officer's return thereon.

10. B. _____, 184 .

Pursuant to the within warrant, I have notified and summoned the within named persons to appear before the town Clerk and take the oaths respectively of their offices.

J. L. Constable of B.

ENGINE MEN.

ination and appointment Engine men. y are conditionally ex- t from military duty. may be discharged if igent. heir annual meetings; authority to choose of- s; to establish rules and x penalties.	4. To meet monthly to examine engine. 5. Duty of Engine men in case of fire. 6. Selectmen may select any number for special service. 7. Town may excuse them from serving as Jurors.
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Whenever any town, corporation or individuals, shall and keep for public use any Fire Engine, the Select- any town in which the same is so kept, are hereby red to appoint any number of suitable persons they em necessary, not exceeding sixty to each engine, if gine have suction hose, and not exceeding thirty-five ut suction hose, to be engine men ; and the engine appointed shall be exempted from all military duty hat of being detached or called forth to execute the suppress rebellion, or to repel invasion : provided, ry engine man claiming exemption from military duty ie of this act, shall first produce to the commanding f the company to which they respectively belong, on e the second Tuesday of September annually, the te of such Selectmen certifying that he has been

erson shall be exempt from the performance of any military virtue of his being a member of any engine company, unless on or before the second Tuesday of April annually, produce ommanding officer of the military company to which he the certificate of the Selectmen of the town in which he t he has been duly appointed an engine man and that he faith- forms the duty thereof. But it shall be lawful, and it shall uty of the clerk of each engine company to return to the ling officers of military companies a list of all the members engine companies, and such list so returned, shall avail each n the same manner as though he had personally returned his of membership. *ch. 706, s. 1.*

duly appointed an engine man, and that he faithfully performs the duties thereof. And such engine men so appointed shall be liable to all the duties and penalties and entitled to all other privileges and exemptions provided by the acts, to which this is additional. *ch. 506, s. 1.*

2. If any person, being thus appointed, shall, in the opinion of the said Selectmen, be negligent and remiss in the duties required of him as an Engine man, by this act, it shall be the duty of the Selectmen, in the same town, upon sufficient evidence thereof, to discharge him from said company, and proceed to appoint another Engine man in his room. *ch. 132, s. 4.*

3. Said Engine men shall be, and they are hereby authorized and empowered, to meet together some time in the month of May annually; at which meeting they shall have authority to choose a master, or director, and Clerk of the said Engine; and establish such rules and regulations, respecting their duty as Engine men, as shall be approved of by the Selectmen, and to annex penalties to the same which may be recovered by the Clerk of said Engine men, before any Justice of the Peace, in the same county: *Provided*, No penalty shall exceed six dollars, and that such rules and regulations shall not be repugnant to the Laws of this State. *s. 1.*

4. The respective companies of Engine men who may be nominated and appointed in pursuance of this act, shall be held and obliged to meet together once a month and oftener if necessary, for the purpose of examining the state of the Engine to which they belong, and the appendages belonging to the same, and seeing that the said Engine is in good repair; * and ready to proceed on any emergency to the relief of any part of the community that may be invaded by the calamity of fire. *s. 2.*

5. The said Engine men appointed as aforesaid shall be held and obliged to go forward either by night or by day, under the direction of the fire wards in the same town, and to use their best endeavors to extinguish any fire that may

* If any person shall wantonly or maliciously, spoil, break, injure, damage or render useless, any engine, or any of the apparatus thereto belonging, prepared by any town, society, person or persons, for the extinguishment of fire, and shall be convicted thereof before the Supreme Judicial Court, he shall be punished by a fine not exceeding five hundred dollars, or by imprisonment, not exceeding two years, at the discretion of the Court; and be further ordered to recognise, with sufficient surety, or sureties, for his good behavior for each term the Court shall order. *ch. 27.*

in the same town or the vicinity thereof, and shall, to their knowledge, without delay. *ch. 132, s. 2.*

The said Selectmen may in their discretion select such Engine men aforesaid, any number for each Engine in the respective towns, whose duty it shall be, under the direction of the fire wards, to attend fires therein, with axes, pikes, fire sails, and ladders, and who shall do such duty as the said Selectmen shall from time to time direct, and shall be entitled to all the exemptions and privileges of Engine men. *s. 5.*

All persons legally attached to any Engine within this State shall be and they hereby are excused from being chosen or summoned to serve as jurors in any Court within this State, in any case where the town to which such Engine men belong shall at a legal meeting of its inhabitants, by vote determine the expediency of excusing such persons from serving as jurors. *s. 12.*

FENCE VIEWERS.

**A.—Choice and oath of Fence Viewers ;
Selection of, where town line is a boundary ;
Forfeiture for neglect of duty ;
Fees.**

- | | |
|---|--|
| <p>§ 1. Two or more freeholders, &c. to be chosen ;
ib. Oath.
ib. Statute not to extend to half acre house lots ;
ib. Nor does it avoid written agreements.</p> | <p>2. If line in two towns, a Viewer to be taken from each town.
3. Forfeiture for neglect—\$3.
4. Fees ; liability for non-payment.</p> |
|---|--|

B.—What shall be accounted legal fences ; apportionment and maintenance thereof.

- | | |
|--|---|
| <p>§ 1. Description of a legal fence ;
2. How apportioned among occupants.
3. New division may be made in certain cases.</p> | <p>4. To be kept in repair through the year unless, &c.
5. Similar provisions as to water fences.</p> |
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C.—Their power to assign shares of partition fences in case of dispute ; and to determine the mode of fencing, where brooks, &c. not accounted sufficient.

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| <p>§ 1. May assign each party his share, in writing.
ib. Assignment to be recorded by town clerk.
2. Liability of delinquent party.</p> | <p>3. Their power where water boundary is insufficient and a fence or boundary line impracticable.
4. Liability for neglect of their determination.</p> |
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D.—Rights and liabilities of occupants in regard to partition fences, and proceedings in case of neglect.

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| <p>§ 1. On neglect of either party, fence viewers to survey and notify delinquent.
2. Liabilities for further delinquency.</p> | <p>3. Aggrieved party may recover demand and 12 per cent. interest if not paid in a month.</p> |
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eedings where one of the occupants of lands, owned, but not owned, in common, wishes to sue in severalty ;
 where one party ceases to improve land, or shall improve enclosure in common ;
 where lands unimproved and in common shall be enclosed or improved.

owner in severalty wish-
 improve in severalty.
 Viewers on refusal of
 or party, may divide
 sign.
 for further neglect.
 party cease to improve
 shall lay enclosure in

common—Fence still to re-
 main, provided, &c.

4. If lands unimproved &c. are enclosed or improved—occupant, &c. to pay for half the fence of adjoining enclosures.
5. Liability for neglect.

power and duty as to fences of proprietors of general and common fields.

Fence Viewers as to
 general fences.
 refusal of owner, after no-
 tice of occupier, &c. may
 demand double.
 month after notice and
 may bring suit.

4. Proceedings where fences are destroyed by tempest, &c.
5. If double expenses and fees not paid in one month delinquent may be sued.

The extent of the Statute (c. 44.) limited.

H.—Forms.

Fence Viewers to a
 whose fence is insuffi-
 cient of a division fence,
 and or rebuilt by an oc-
 cupant on refusal, after legal
 notice by another occupant,
 that it was to repair
 the same.
 In case of dispute about
 the respective occupant's right
 to the fences or obliga-
 tion to maintain the same.
 The extent of shares in a par-
 tition fence in case of dispute.
 The parties to be present
 at assignment, &c. of
 water fences.

6. Determination of Fence Viewers as to fences on lands bounded by brook, pond or creek.
7. Application to Fence Viewers where one of the occupants of lands improved but not owned in common, is desirous of improving in severalty.
8. Notice to a party on the above application.
9. Assignment of division fence on such application.
10. Appraisalment of the value of a partition fence, when a party ceases to improve or shall lay his enclosure in common.

A.—Choice and oath of Fence Viewers ;**Selection of, where town line is a boundary ;****Forfeiture for neglect of duty ;****Fees.**

§ 1. In every town within this State there shall be chosen annually by the inhabitants thereof, at the time of their meeting for the choice of town officers, two or more judicious and discreet freeholders, being inhabitants of the same town, to be Fence Viewers, *to be sworn as other town officers are sworn, to the faithful discharge of the duties of their office. *ch. 44, s. 1.*

2. In all cases where the line upon which partition fence is to be made or divided is the boundary line of one or more towns, or partly in one town and partly in another town, Fence Viewer shall be taken from each town. *s. 6.*

3. Any Fence Viewer duly chosen and sworn, who, on due notice given him and being requested by any person interested to view any fence complained of, as insufficient shall neglect forthwith to attend the same, shall forfeit and pay the sum of three dollars, to him or them who shall sue for the same, within forty days after such neglect. *s. 8.*

4. Each Fence Viewer shall be paid one dollar a day fifty cents for half a day, and under that twenty-five cents for the time he shall be engaged in the business of his office, by the person employing him. And in case the complainant shall neglect to pay the Fence Viewers their legal fees, within thirty days after the service done, they may severally recover, by an action of the case, double the amount of such fees ; and each Fence Viewer may be a witness for or against his companion in such suit. *s. 8.*

B.—What shall be accounted legal fences ; apportionment and maintenance thereof.

§ 1. All fences four feet high, and in good repair, consisting of rails, timber, boards or stone walls ; and all brooks, rivers, ponds, creeks, ditches and hedges, or other matter or thing equivalent thereto, in the judgment of the Fence Viewers, within whose jurisdiction the same shall lie shall be accounted legal and sufficient fences. *ch. 44, s.*

* No pound-keeper shall, while holding such office, have or exercise the office of Field Driver or Fence Viewer. *ch. 325, s. 2.*

2. The respective occupants of lands enclosed with fence, shall keep up and maintain partition fences between their and the next adjoining enclosures,* in equal halves, so long as both parties continue to improve the same. s. 2.

3. In all cases where the occupants of adjoining closes have, or shall have maintained a partition fence, either with or without making a division agreeably to law, and either of said owners or occupants shall from any legal cause, cease to maintain the whole of his proportion of such partition fence, then it shall be lawful for the owner or occupant of

* The object of the Statute is to establish the rights and obligations of tenants of adjoining occupied closes, respecting the making and maintaining of partition fences; but the rights of owners of adjoining lands which are not both occupied by the respective owners, and lands enclosed in general field or common pasture; and the rights of persons, not having any interest in any of the adjoining closes, remain unaffected by the Statute, and are to be defined and protected by the common law. 6 Mass. Rep. 96—98.

In the case of *Little v. Lathrop*, 5 Greenleaf, 356, C. J. Mellen says, the important case of *Rust v. Low* et al. 6 Mass. 90, may be considered as containing all the legal principles in relation to the subject. From a careful examination of it the following principles appear to be recognized and established.

1. At common law, the tenant of a close was not obliged to fence against an adjoining close unless by force of prescription.

2. At common law, when a man was obliged by prescription to fence his close, he was not obliged to fence against any cattle, but those which were rightfully in the adjoining close.

3. At common law, a man, though not bound to fence against an adjoining close, was still bound at his peril to keep his cattle on his own close, and prevent them from escaping.

4. The legal obligations of the tenants of adjoining lands to make and maintain partition fences, where no prescription exists, and no written agreement has been made, rest on the Statute.

5. An assignment pursuant to the statute imposes the same duty as would result from a prescription.

6. Where there is no prescription or agreement, the provisions of the statute oblige a tenant, liable to make the partition fence, or any part of it, to fence only as in the case of prescription at common law; that is, against such cattle as are rightfully on the adjoining land.

7. Every person may maintain trespass against the owner of cattle, unless such owner can protect himself by the provisions of the statute, or by written agreement, or by prescription.

From the foregoing principles, it appears,

1. That where there is no prescription, agreement or statute assignment, no tenant is bound to fence against an adjoining close; but in such case, there being no fence, each owner is bound at his peril to keep his cattle on his own close.

2. When a tenant for any of the reasons before stated, is bound to fence against an adjoining close, it is only against such cattle as are rightfully in that close; and in such case, if the fence be not in fact made, the owner of either close, thus adjoining, may distrain the cattle escaping from the adjoining close, not rightfully there.

either of the closes, on which the partition fence is thereby varied, to have a new division of such partition fence; and the owner of the excess over one half of such partition fence, shall be entitled to recover against the other owner or occupant, the value of such excess; such value to be ascertained by two Fence Viewers, who may be called upon, and shall proceed in the manner pointed out in the act which to this is additional, for coming to a division of partition fences; and unless such sum shall be paid within six months from the time it shall be so ascertained, the party entitled to recover, shall have his action on the case therefor, in any Court of competent jurisdiction. *ch. 232.*

4. All divisional fences between man and man shall be kept in good repair throughout the year, unless the occupiers of the lands on both sides shall otherwise agree. *ch. 44, s. 3.*

5. When a water fence, or fence running into the water is necessary to be made, the same shall be done in equal halves, unless by the parties otherwise agreed: and in case either party shall refuse or neglect to make or maintain the share to such party belonging, similar proceedings shall be had, as in other cases of the like kind respecting fences out of the water, in this act mentioned. *s. 7.*

C.—Their power to assign shares of partition fences in case of dispute; and to determine mode of fencing where brooks, &c. are not accounted sufficient.

§ 1. When any dispute shall arise about the respective occupant's right in partition fences, and his or their obligation to maintain the same, upon application made by either party to two or more Fence Viewers of such town where the lands lie, they are hereby empowered, after due notice to each party, to attend at time and place, if they see cause, to assign to each party his share thereof, in writing,* which assignment, being recorded in the town Clerk's office, shall be binding upon such persons and the succeeding occupiers

* The part of a fence assigned to a party to keep in repair is his property so far at least that the removal of it for lawful purposes cannot make him a trespasser: there is no joint tenancy, or tenancy in common, of the materials of which the fence is composed. *11 Mass. Rep.*

of the respective lands, and they obliged always thereafter maintain their part of said fence. *ch. 44, s. 3.*

2. In case any of the parties shall refuse, or neglect erect, keep up and maintain the part to such party assigned, the same may be done by the aggrieved party, in manner hereafter in this act provided, and for which shall be entitled to double the sum ascertained, in manner as aforesaid, and to be recovered in like manner. *ch. s. 3.*

3. When lands belonging to or occupied by different persons, and subject to be fenced, are bounded upon, or divided from each other by any brook, pond or creek, which of itself is not a sufficient fence in the judgment of the Fence Viewers, and it is in their opinion impracticable, without reasonable expense, for the partition fence to be made in the middle or other part thereof, being the true boundary line between them; if, in such case, the occupant of the land on one side shall refuse or neglect to join with the occupant of the land on the other side, in making a partition fence on one side or the other, or shall disagree respecting the same, then two or more Fence Viewers of the town or towns where such lands lie, on application to them made, shall forthwith view such brook, river, pond or creek; and if they shall determine the same not to answer the purpose of a sufficient fence, and that it is impracticable to fence at the true boundary line; they shall judge and determine how, or on which side thereof the fence shall be set up and maintained, or either partly on one side, and partly on the other side, to them shall appear just, and reduce such their determination to writing, having first given notice to the parties be present at such assignment. *s. 4.*

4. If either of the parties shall refuse or neglect to make and maintain the part of the fence to such party belonging, according to the Fence Viewers' determination in writing, as aforesaid, the same may be done and performed, as in this act is before provided, and the delinquent party subject to the same costs and charges to be recovered in like manner. *s. 4.*

—Rights and liabilities of occupants in regard to partition fences, and proceedings in case of neglect.

1. In case either party shall neglect or refuse to repair or build the fence, which of right he ought to maintain, the

aggrieved party may forthwith apply to two or more Fence Viewers of such town, duly chosen and sworn to survey the same ; and upon their determination that the fence is insufficient, they shall signify the same in writing, to the occupant of the land, and direct him to repair or rebuild the same within six days. *ch. 44, s. 2.*

2. And if the same fence shall not be repaired or rebuilt within the said term of six days, it shall be lawful for the complainant, that improves the lands adjoining, to make up, amend or repair the deficiency ; and when the same shall be completed and adjudged sufficient by two or more of the Fence Viewers, and the value thereof, together with the Fence Viewers' fees ascertained in writing, the complainant shall have a right to demand and receive of the occupant, lessor or freeholder of the land where the fence was deficient, as aforesaid, at his election, double the sum thus ascertained as aforesaid, for the expense of amending, surveying and viewing the fence. *s. 2.*

3. In case of neglect or refusal to make payment thereof, for the space of one calendar month after demand made of the person against whom he shall make his election, he may sue for and recover the same, by a special action of the case in any Court proper to try the same, and interest, one per cent. per month, until judgment shall be rendered therefor. *s. 2.*

E.—Proceedings where one of the occupants of lands, improved but not owned, in common, wishes to improve in severalty ;

—Where one party ceases to improve land, or shall lay improved enclosure in common ;

—And where lands unimproved and in common shall be enclosed or improved.

§ 1. Where any lands belonging to two persons in severalty, shall have been improved in common, without a partition fence between them and one of the occupants shall be desirous to improve his part in severalty, and the other occupant shall refuse or neglect, on demand, to divide the line where the fence ought to be built, or to build a sufficient fence on his part of the line when divided, it shall be in the power of the party desiring it to have the same divided and assigned

by two or more of the Fence Viewers of the same town, in the way and manner in this Act provided. *ch. 44, s. 5.*

2. The same Fence Viewers may, in writing, assign a reasonable time, having regard to the season of the year, for making up the fence; and if the occupant complained of shall not build and erect his part of the fence within the time so assigned, it shall and may be lawful for the other party after having made up his own part of the fence, to make up the other's part, and recover therefor double the sum it shall cost, with the fees of the Fence Viewers, in the way and manner in this Act before provided. *s. 5.*

3. When one party shall cease to improve his land, or shall lay his enclosure, before under improvement in common, he shall not have a right to take away any part of the partition fence that to him belongs, adjoining to the next enclosure that is improved: *Provided*, The party continuing to improve will allow and pay therefor so much as two or more Fence Viewers shall, in writing, determine the reasonable value thereof. *s. 6.*

4. Whenever any lands which have laid unimproved and in common, shall be afterwards enclosed or improved by depasturing, the occupant, lessor or freeholder thereof shall pay for the one half of each partition fence standing upon the divisional line between the same land and the land of the enclosures of any other occupant or proprietor, the value and part thereof to be ascertained, in writing, in case they shall not agree between themselves, by two or more of the Fence Viewers of the same town wherein such land lies. *ib.*

5. In case such occupant, lessor or proprietor as aforesaid, shall neglect or refuse to pay for a moiety of the partition fences for the space of thirty days after demand made, the value having been ascertained as aforesaid, the proprietor of the fence may have and maintain in form aforesaid, an action of the case for such value and the costs of ascertaining the same. *ib.*

F.—Their power and duty as to fences of proprietors of general and common fields.

§ 1. Whenever the fence around any general and common field, belonging to any freeholder, occupant, or improver of any land in such field, shall become deficient and need repairing, the owner thereof shall immediately repair such de-

fective fence, after being duly notified of such deficiency by any Fence Viewer of the town wherein such field lieth. *ch. 44, s. 10.*

2. In case the owner thereof shall neglect to repair such defective fence, for the space of three days, after due notice given thereof by any Fence Viewer as aforesaid, it shall and may be lawful for any freeholder or occupier of any lands in such fields, to repair such defective fence; and when the same shall be completed and adjudged sufficient, by two or more of the Fence Viewers of the town wherein such fence lieth, and the value thereof, together with the Fence Viewers' fees ascertained in writing, by them subscribed, the person who shall make up or repair such deficient fence, shall have a right to demand and receive of the occupier lessor or freeholder of the land, who ought to make up or repair the same, at his election, double the expense of making or repairing, surveying and viewing such fence. *ib.*

3. In case of neglect or refusal to make payment thereof for the space of one month, after notice and demand made of the person against whom he shall make his election, to satisfy him therefor, he may sue for and recover the same by a special action of the case, with cost of suit, in any Court proper to try the same. *ib.*

4. Whenever any such fence shall be suddenly blown down, carried away or destroyed, and the crops of grain or grass therein growing, shall be thereby exposed to be immediately destroyed, the occupant or freeholder of the same, to whom the same fence belonged to repair, shall immediately repair the same: and in case of neglect for the space of twenty-four hours after notice given him thereof by any Fence Viewer as aforesaid, it shall and may be lawful for any freeholder or occupier of any lands in such fields, to set up and sufficiently repair such fence; and when the same shall be completed and adjudged sufficient by two Fence Viewers or more, as aforesaid, and the value thereof, together with the Fence Viewers' fees, ascertained in writing as aforesaid, the person who shall set up or repair the same, shall have a right to demand and receive of the occupier, lessor, or freeholder of the land, who ought to make up and repair such fence, at his election, double the sum thus ascertained as aforesaid, for the expense of setting up, repairing, surveying and viewing the same. *s. 11.*

5. In case of neglect or refusal to make payment thereof, for the space of one month as aforesaid, after demand made of the person against whom he shall make his election to

receive the same, he may sue for and recover the same, with costs of suit in manner as is before directed. *ch. 44, s. 11.*

G.—The extent of the Statute (ch. 44.) limited.

Nothing in this Act contained shall extend to house lots, the contents of which do not exceed half an acre ; but if the owner or owners of such lots shall improve, his neighbor shall be compellable to make and maintain one half the fence between them, whether he improve or not ; or to make void any written agreement respecting the making or maintaining partition fences. *ch. 44, s. 7.*

H.—Forms.

Notice of Fence Viewers to a party whose fence is insufficient.

1. To Mr. A. B., of B—.

Sir,—On application to us by Mr. we have surveyed the partition fence between his enclosure and yours at , (or from to) which, he alleges of right you ought to maintain : our determination thereupon is, that said fence is insufficient, and we hereby signify the same to you and direct you to repair (or rebuild) the same within six days from the date hereof, (*or if not delivered on the day of the date, say within six days from the time of your receiving this notice.*)

Given under our hands this day of 184 .
D. D. } Fence
J. H. } Viewers.

Appraisal of a division fence, repaired or rebuilt, &c.

2. We the subscribers, Fence Viewers of the town of B. have at the request of A. B. surveyed a certain fence by him repaired or rebuilt between his land and that of C. D. which of right the said C. D. ought to have repaired (or rebuilt) and of which he was duly notified on the day of , but neglected so to do for the term of six days after such notice :

Dated the day of , A. D. 184 .
D. S. } Fence
J. H. } Viewers.

3. To Mr C. D. of E.

Dated , 184 .

D. S. } Fence
J. H. } Viewers.

4. Whereas a dispute has arisen between A. B. of _____, and C. D. of _____, about their respective rights in, and obligations to maintain, a partition fence in the line between their several lands, at _____, (or, from _____, to _____): and whereas we the subscribers, Fence Viewers of the town of B. upon application to us by said A. B. gave due notice to each of said parties to attend, if they saw cause, at the time and place when and where assignment should be made: Therefore by virtue of the statute in such cases provided, and after having viewed the premises and duly considered the matter in dispute, we have assigned and do hereby assign to each of said parties his share of said fence as follows, to wit:—

Given under our hands at said B. this day of
184 D. S. } Fence
 J. H. } Viewers.

Notice to parties to be present at the assignment, &c.

5. To _____ of _____
Whereas A. B. of _____, has represented to us, Fence Viewers of the town of B. that C. D. of _____, refuses to join with him the said A. B. (or, that the said A. B. and C. D. of _____, cannot agree, *as the case may be,*) in making a partition fence between their lands, or, (between the lands occupied by them) the same being bounded upon, or divided by a brook, (river, pond or creek, *as the case may be*) And whereas the said A. B. has made application to us to view the same and determine thereupon :

Therefore, we hereby give you notice, that we shall attend that service on _____, the _____ day of _____ at _____ of the clock in the _____ noon, when and where you will be present, if you see fit.

Dated the _____ day of _____, A. D. 184 .

D. S.

J. H.

Determination of Fence Viewers, &c.

6. Whereas A. B. of _____, did represent to us, Fence Viewers of the town of B. that C. D. of _____, had refused to join with him (or, that they could not agree) in making a partition fence between their lands (or, between the lands occupied by them, *as the case may be,*) the same being bounded upon or divided by a brook, (river, pond or creek,) and did apply to us to view the same and determine thereupon ; we have, after giving due notice to the parties, attended that service, and do determine that the said brook, (river, pond or creek) does not answer the purpose of a sufficient fence and that it is impracticable for the partition fence to be made at the true boundary line : We do therefore further determine that the fence shall be set up as follows, to wit :—

That the said A. B. shall build and maintain (describe the part) and that the said C. D. shall build and maintain (the other part.)

Given under our hands this _____ day of _____, 184 .

D. S.

J. H.

Application to Fence Viewers, &c.

7. To D. S. and J. H. two of the Fence Viewers of the town of B.

Gentlemen,—I am desirous to have a partition fence between the land occupied by me at , and that occupied by C. D. which have hitherto been improved in common, and to improve my part in severalty; but the said C. D. although requested so to do, has refused (*or, neglected*) to divide the line where the fence ought to be built, (*or, to build a sufficient fence on his part of the line* :)

You are therefore requested to divide and assign the same in the way and manner by law provided.

Dated , A. D.

A. C.

Notice to a party on the above application.

8. To C. D. of

Sir,—Mr. A. C. of the town of B. has informed us, Fence Viewers of said town, that he is desirous of having a partition fence between the land occupied by him at , and the land occupied by you, which have hitherto been improved in common, and to improve his part in severalty; but that you refuse (*or, neglect*) to divide the line where the fence ought to be built, (*or, to build a sufficient fence on your part of the line*) and hath therefore requested us to divide and assign the same in the way and manner by law provided. This is therefore to give you notice that we shall attend that service at , on the day of at of the clock in the noon, when and where you may be present, if you see fit.

D. S.

J. H.

Assignment of division fence on such application.

9. Whereas A. C. of the town of B. did represent to us, Fence Viewers of said town, that he was desirous of improving in severalty a certain parcel of, (here describe the same) which has hitherto been improved in common with a certain piece of land, &c. occupied by C. D. and to have a partition fence between the said lands, and that the said C. D. had refused (*or, neglected*) to divide the line where the fence ought to be built (*or, to build a sufficient fence on his, the said C. D's, part of the line*;) and did request us to divide and assign the same, in the way and manner by law provided :

We therefore, having given due notice to the said C. D. we divided and assigned and do hereby divide and assign the said line as follows, to wit :

The said A. B. shall build and maintain a fence on the line running from to

And the said C. D. shall build and maintain a fence on the other part of the said line, viz. from to . And we do hereby assign the space of , from the date hereof for running up the fences as aforesaid, whereof the several parties aforesaid are to take notice.

Given under our hands this day of A. D. 184 .

D. S.

J. H.

Appraisement of the value of a partition fence, &c.

10. We the subscribers, Fence Viewers of the town of at the request of , to appraise his part of a partition fence between his lands at , which have been under improvement, but which he has ceased to improve, (or, between his enclosure at , before under improvement, but which he chooses to lay in common) and the enclosure of , have viewed the same and determined the reasonable value thereof to be .

Dated the day of , 184 .

D. S.

J. H.

FIREWARDS.

A.—Choice of Firewards ; liability for refusal to serve ; their power and duty at fires.

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| <p>§ 1. Choice of Firewards ;
ib. Person elected to be notified ;
ib. Liability for refusal to serve ;
ib. New choice, on refusal.
2. To attend at fires with official badge.
3. Power to demolish buildings.</p> | <p>4. Power to require assistance ;
to appoint guards to secure property ; to demolish buildings ; and to suppress tumults.
ib. Authority to direct operations of Engine men and others ;
ib. Liabilities for disobedience of orders.</p> |
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B.—Of compensation to owners of buildings demolished to prevent the spreading of fires.

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| <p>§ 1. In what cases owner of demolished building shall be indemnified ;
ib. By whom, and how paid.
2. No compensation for the building where fire began.</p> | <p>3. Owner may appeal to Sessions if aggrieved.
4. Collector's power to collect sums assessed for compensation.</p> |
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C.—Forfeiture for occupying buildings for certain purposes except by permission ; Liability for plunder of property at fires : Fine for setting fire to combustibles in streets, making bonfires, throwing rockets, &c.

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| <p>§ 1. Forfeiture for occupying building in which a sail loft or livery stable, without permission.
2. Penalty for embezzling property at fires.
3. Penalty for setting fire to</p> | <p>combustibles, &c. within 10 rods of any building.
ib. Liability of masters and parents of minors.
4. Penalty for throwing lighted squibs, &c. without licence.</p> |
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A.—Choice of Firewards ; liability for refusal to serve ; their power and duty at fires.

§ 1. Each town in this State in their March or April meeting annually, wherein the qualified voters shall think it expedient to choose firewards, shall hereafter have power to elect such number of suitable persons to be firewar

rein, as shall be deemed necessary; and each person selected shall be notified thereof within three days; and within three days after being so notified, enter his acceptance or refusal of the said office with the town Clerk. If any person being so elected and notified, shall neglect to enter his acceptance or refusal as aforesaid, he shall sit and pay ten dollars, unless excused by the town; the town shall have power to elect another in his place, in case of such neglect or refusal. *ch. 132, s. 6.*

. When any fire shall break out in any town wherein firewards shall be appointed, they shall immediately attend the fire, and carry with them a suitable staff or badge of their office. *ib.*

. When any fire shall break out in any town, the firewards thereof who shall be present at the place in immediate danger, or any three of them, and where no firewards shall be appointed, a major part of the Selectmen present; in their absence two or three of the civil officers present; in their absence two or three of the chief military officers of said town present, shall have power to direct the pulling down or demolishing any such house or building as they shall judge necessary to be pulled down or demolished, in order to prevent the further spreading of the fire. *s. 7.*

. During the continuance of any fire, the said firewards or officers, as the case may be, shall have power to require assistance for extinguishing the same, and for removing any furniture, goods, or merchandise from any building on fire, in danger thereof, and to appoint guards to secure the same; and also assistance for pulling down or demolishing any house or building as the case may require; and further suppress all tumults and disorders. And the said firewards, Selectmen or officers, as the case may be, shall have authority to direct and appoint the stations and operations of engine men with their engines and of all other persons, for the purpose of extinguishing the fire, and preventing its increase: and if any person shall refuse or neglect to obey any order given by said firewards or officers in the premises, such person so offending shall forfeit and pay for each offence ten dollars. *ib.*

—Of compensation to owners of buildings demolished to prevent the spreading of fires.

§ 1. If the pulling down or demolishing of any house or building, by the directions aforesaid, shall be the means of

stopping the said fire ; or if the fire stop before it come to the same, then every owner of such house or building shall receive a reasonable compensation, and be paid for the same by the inhabitants of the town in which the fire shall happen. And it shall be the duty of the qualified voters in such town, to grant such sum or sums of money as shall be thought necessary and proper by the Selectmen of the same town, and of the Assessors to assess the same. *ch. 132, s. 8.*

2. *Provided always*, That when it shall be adjudged fit that the house or building where the fire shall first begin and break out should be pulled down or demolished to prevent the further spreading and increase of the same fire ; then the owner of such house or building shall receive no compensation for the same. *ib.*

3. *Provided also*, That if any person shall find him or herself aggrieved by the doings of the town, Selectmen or Assessors thereof in estimating, voting or assessing such sum or sums, he or she shall have a right to appeal and complain to the next Court of Sessions to be holden in the county ; and the said Court thereon shall have power on a consideration of all the circumstances of the case, to confirm said doings of said town, Selectmen or Assessors, or to alter the same in such manner as the said Court shall judge proper ; and in either case to award legal costs, as the justice of the case may require. *ib.*

4. The Collectors to whom the said assessments shall be committed to collect, shall have the same powers and be subject to the same duties, as in the collection of other town taxes, as well in collecting an assessment so confirmed or altered, as in cases wherein there shall be no appeal. *ib.*

C.—Forfeiture for occupying buildings for certain purposes except by permission :

Liability for plunder of property at fires :

Fine for setting fire to combustibles in streets, making bonfires, throwing rockets, &c.*

§ 1. If any person shall occupy or improve any tenement or building whatever, in any part of any maritime town in this State for the business or employment of a sail maker or rigger or keeper of a livery stable, except only in

* For power of Selectmen in the prevention of fire, see Selectmen

such parts of the town as the Selectmen thereof or a major part of them shall direct and determine, such sail maker origger, so offending, shall forfeit and pay for each offence ten dollars ; and such keeper of a livery stable shall forfeit and pay for each offence fifty dollars, for every month so occupying the same, and so in proportion for a longer or shorter time. *ch. 132, s. 10.*

2. If any person shall, in such case of fire, plunder, purloin, embezzle, convey away or conceal any furniture, goods or chattels, rights or credits, merchandize or effects of the inhabitants whose houses or buildings shall be on fire or endangered thereby, and said inhabitants shall be put upon removing the same, and shall not restore or give notice thereof to the owner (if known) or to one of the firewards of the town, or bring them into such public place as shall be assigned by the Selectmen of the town within two days after public notice shall be posted in some public place in the town by the Selectmen thereof, for that purpose, the person or persons so offending, and being thereof convicted, shall be deemed guilty of larceny, and punished accordingly. *s. 9.*

3. If any person or persons shall set fire to any pile of combustible stuff, or be any ways concerned in causing or making a bonfire in any street or lane, or any other part of any town within this State, such bonfire being within ten rods of any house or building, every person so offending shall, for each offence, forfeit and pay the sum of eight dollars, or be imprisoned not exceeding one month. The fine shall be recovered, with costs of prosecution, one moiety to the use of the town wherein the offence shall be committed, and the other moiety to him or them who shall sue for the same. And all masters are hereby made liable to pay the fine as aforesaid for the offences of their servants ; and all parents for the offences of their children under age and not being servants. *ch. 125, s. 10.*

4. If any person shall offer for sale, set fire to or throw any lighted cracker, squib, rocket or serpent within this State, without the license of the Selectmen of the several towns, respectively, first obtained therefor, he shall forfeit for every such offence, the sum of five dollars ; one moiety to the use of the poor of that town, in which the offence shall be committed, and the other moiety to the use of the prosecutor ; to be recovered by action of debt or by information before any Justice of the Peace of the county, in which the offence shall be committed, with the costs of suit. *ch. 28.*

HEALTH COMMITTEES, OR OFFICERS, AND SUPERINTENDANTS OF VACCINATION.

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| <p>§ 1. Towns may choose health committee, or officer.</p> <p>ib. Their power and duty.</p> <p>2. If nuisance on private property, owner to be notified.</p> <p>ib. Penalty and liability for neglect to remove or discontinue nuisance.</p> | <p>3. Power to require vessels to perform quarantine.</p> <p>4. Where no board of health, towns may choose superintendents of vaccination: their duty.</p> <p>5. Towns may raise money to defray expenses.</p> |
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§ 1. Each town in this State, may at their meeting held in March or April annually, or at any other meeting legally warned for the purpose, when they shall judge it to be necessary, choose and appoint a health committee, to consist of not less than five, nor more than nine suitable persons, or one person to be a health officer, whose duty it shall be to remove all filth of any kind whatever which shall be found in any of the streets, lanes, wharves, docks, or in any other place whatever within the limits of the town to which such committee or health officer belongs, whenever such filth shall in their judgment endanger the lives or the health of the inhabitants thereof, and also to require the owner or occupier to remove or discontinue any drain from which any such filth may proceed. All the expenses whereof to be paid by the person or persons who placed such filth there if known; or if not, by the town by which the said committee or health officer was appointed. *ch. 127, s. 8.*

2. And whenever any filth or drain as aforesaid shall be found on private property, said committee or health officer shall notify and order the owner or occupier thereof, after twenty-four hours' notice, to remove the same or discontinue such drain at their own expense; and in case said owner or occupier shall neglect to remove such filth from his or her property or to remove or discontinue such drain after the expiration of the time aforesaid, he or they so offending s

l pay a fine of one hundred dollars, to be sued for
ered, with costs of suit, by said committee or health
fore any Court proper to try the same, for the use
or of the town in which such offence is committed :
owner or occupier as aforesaid shall be liable and
repay to said town all costs and charges which the
nittee or health officer may have incurred in remov-
th from his or her property ; and in case of refusal
same, he or they may be sued in the same way as
d in this Act for the recovery of fines as afore-
127, s. 8.

every seaport town within this State, where there
a committee or a health officer, legally chosen and
in manner as directed by this Act, and the Select-
ch town, shall judge it necessary, and shall certify
their hands, or the major part of them ; such health
or health officer are hereby authorized to perform
ties, and exercise all the authority which Select-
authorized and required to execute, in requiring
n or persons, vessel or vessels, to perform quaran-
unner as pointed out in this Act.* s. 14.

shall be the duty of every town and plantation with-
ute, wherein no board of health shall be established
t their annual meetings for the choice of town of-
hoose, in the manner in which other town officers
w chosen, three or more suitable persons whose
all be to superintend the inoculation of the inhab-
such town or plantation, with the kine pock. *ch.*

shall and may be lawful for the inhabitants of any
plantation, at any of their said annual meetings, to
or the inoculation of the inhabitants of such town
tion with the kine pock under the direction and
said superintendants, or a board of health, where
d is established ; and to raise all necessary sums
the expense of such inoculation, or such part there-
y may deem proper, in the same way and man-
ther town charges are by law defrayed. s. 2.

Act referred to, see Selectmen, under the head of their
revent the spread of contagion.

HIGHWAYS.

A.—Power and duty of towns and town officers in establishment or discontinuance of town or vate ways.

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| <p>§ 1. Selectmen may lay out town or private ways.</p> <p>ib. If approved by town, to be established.</p> <p>2. On neglect of Selectmen, what proceedings to be had.</p> <p>ib. In what cases towns to pay damages.</p> | <p>3. On neglect of towns, what to be had.</p> <p>4. Power to alter or discontinue ways.</p> <p>5. Assessment of damages.</p> <p>6. Applications for damage made in one year.</p> <p>ib. Previso.</p> |
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B.—Power and duty of Surveyors of highways to pair roads and bridges.

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| <p>§ 1. Ways to be kept in repair: choice of Surveyors.</p> <p>2. Selectmen to assign limits to Surveyors.</p> <p>3. Two thirds of sums voted to be expended before July 1st.</p> <p>4. Surveyors to notify those in his district.</p> <p>5. Their power in case taxes are insufficient.</p> <p>6. Their liability for not exhibiting rate bills.</p> <p>7. Their power in removing obstructions and obtaining materials.</p> | <p>8. Their duty to remove lumber, &c.</p> <p>9. When owner unknown.</p> <p>10. Their duty to clear blocked with snow, and repair sudden injuries ways, &c.</p> <p>11. Towns may authorize surveyors to make contracts &c.</p> <p>ib. Assessors' duty in such cases.</p> <p>12. Liability of Surveyors neglecting to pay surplus to Treasurer.</p> |
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C.—Liabilities of towns, of Surveyors, and of officers in cases of injury through defect of ways.

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| <p>§ 1. Liability in case of injury to person or property.</p> <p>2. Penalty, if life is lost.</p> | <p>3. Surveyor's liability for negligence.</p> <p>4. Appropriation of fines.</p> |
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D.—Power of towns to choose Road Commissioners, their power and duty.

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| <ol style="list-style-type: none"> 1. Towns may choose Road Commissioners, and fill vacancies. 2. To have same powers and duties as Surveyors. 3. To assign care of roads. 4. Compensation. 5. Selectmen to appoint chairman, his duty. 6. To give bond. 7. Assessors to deliver rate bills to Commissioners. 8. Taxes to be distributed and notice of time and place to work out taxes. 9. Town may vote what money is equivalent to labor. | <ol style="list-style-type: none"> 5. Same to be received by Commissioners. ib. Penalty for returning delinquents after tender. 6. What notice sufficient to non-residents and absent owners. 7. Return of delinquents to be made to Assessors. ib. Assessors to commit to collector of taxes. 8. Commissioners may appoint collector of delinquent taxes. 9. Collector to pay to commissioners delinquent taxes. ib. To pay Treasurer taxes not collected before annual meeting. |
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—Power and duty of towns and town officers in the establishment or discontinuance of town or private ways.

§ 1. Selectmen may personally or by such persons as they shall appoint, lay out town or private ways for the use of such town only, or for one or more individuals therein; or proprietors therein; but no such town or private way shall be established until the same has been reported to the town at some public meeting held for that purpose, and by them approved and allowed. *ch. 118, s. 9.*

2. If the Selectmen shall unreasonably delay or refuse to lay out or cause to be laid out, such private way when requested in writing by one or more of the inhabitants or proprietors of land in such town, the Court of Sessions for the county at any session within one year, if the request appears reasonable, may cause such private way to be laid out at the cost of the persons applying, by a committee of three interested freeholders, which committee shall estimate the damages occasioned thereby (if any;) the damages to be paid by the town, if it be of general benefit, otherwise by the person or persons for whose use and benefit the way is laid out. *s. 10.*

3. When any town shall unreasonably delay or refuse to approve and allow of any private way laid out by the

Selectmen or their order, and put the same on record, and a person aggrieved may apply to the Court of Sessions for the county, within twelve months after such refusal or delay, and the Court after hearing the town thereon, may accept and approve of the said private way, as laid out by the Selectmen, and direct the same to be recorded in the town book or they may order the private way petitioned for, to be laid out by a committee of three disinterested freeholders to be by them appointed for that purpose, which committee shall be under similar directions and obligations as to locating and estimating the damages occasioned thereby, as is prescribed for a committee in locating and altering a county highway. *ch. 118, s. 11.*

4. Any town may alter or discontinue any town or private way when it shall appear that the same is unnecessary for the inhabitants of such town. *s. 9.*

5. If any person or persons, who are owners of the land through which such way shall be laid out, be injured thereby, he or they shall receive such recompense as the parties injured and the Selectmen shall agree upon, to be paid to the town or persons for whose use the way is laid out; or in case of disagreement, as shall be ordered by the Court of Sessions upon an inquiry into the same by a special committee, if the parties agree thereto, or by a jury to be summoned and selected in the manner prescribed by the first section of this Act. And such committee or jury shall assess damages for the injured party to be paid by such town or person or persons as aforesaid. *s. 9.*

6. All applications to the Courts of Sessions for an inquiry of damages in laying out any town or private way by the Selectmen of towns or Assessors of plantations, or by order or by order of the Courts of Sessions on the neglect or refusal of such Selectmen or Assessors to lay out, or plantations to allow and approve the same, shall be made and filed in the office of the Clerk of said Court within two months next after the allowance and establishing said way, and otherwise, any such claim for damages shall be and remain forever barred: *Provided*, it shall appear by the return of the doings of the Selectmen or committee who laid out such way, that reasonable notice of the time and place of their meeting to lay out such way was given to the person so applying for damages, or to the persons whom they legally represent: or *Provided*, it shall appear by such return, that notification of their meeting for laying out such way was published in some public newspaper printed within the county.

uch way was laid out, and, in want of such paper ed, in such paper printed, within an adjoining county. no such notice or notification, appears to have been r the return under the hands of said Selectmen, As- or Committee, then such application made and filed in rk's office at any time after the expiration of said months shall be sustained. But if the committee or ll find that notice or information came to the knowl- the person so applying for damages twelve months uch application, then such person shall be barred of very of any damage, and shall pay all costs of the in- be taxed by the court. And the applicants may join in such application for inquiry for damages. *ch.* 5.*

the power and duty of Surveyors of highways to repair roads and bridges.†

All highways, town ways, causeways and bridges, within the bounds of any town, shall be kept in repair and amended, that the same may be safe and convenient for travellers with their horses, teams, carts, and carriages, at all seasons of the year, at the proper charge and expense of the inhabitants (where other sufficient provision is not made) and there shall be chosen two or more surveyors, in each town, at the annual meeting in March, who shall be denominated surveyors of highways, qualified and sworn in like manner as other officers of the town, and in case of refusal to serve shall forfeit the sum of ten dollars, to the use of such town : and, no person shall be held and obliged to serve more than a year in three years. *ch.* 118, s. 13. It shall be the duty of the Selectmen of towns, before the first day of May annually, to assign in writing, to the said surveyors, their divisions and limits for making and repairing the highways, which assignments the said surveyors are directed to observe ; and whenever any town shall choose Selectmen surveyors of highways, they may delegate power in writing to such person or persons as they deem proper. *ib.*

If damages have been ascertained the person entitled may recover same and costs in an action of debt. *ch.* 399, s. 6. It is the duty of Surveyor to render lists to Assessors, of deficient roads to Assessors, *C. s.* 6.

3. Two thirds of the sum at least which shall be granted by any town for making or repairing the highways, shall be laid out for that purpose before the first day of July next after granting the same. *ch. 118, s. 13.*

4. The surveyor shall give reasonable notice (in writing if desired) to each person in his list, of the sum he is assessed to the highways, and also to the inhabitants within his district assessed as aforesaid, forty-eight hours' notice, (extraordinary casualty excepted) of the times and places, he shall appoint for providing materials and laboring, to the end each person may have opportunity to work on the highway in person or by his substitute, or with his oxen, horses, cart, and plough, at the rates and prices the town shall affix to such labor, to the full amount of the sum at which he is assessed, or he may pay the surveyor in money the sum he is assessed, in which case the surveyor shall carefully expend the sums paid, in labor and materials for repairing the highways in his limits according to his best discretion. *ib.*

5. When the sum appropriated and assessed for the repair of the highways in the limits of any surveyor shall be insufficient for that purpose, it shall be lawful for the surveyor with the consent of the Selectmen, or the major part of them to employ such of the inhabitants of the town, upon the repair of the ways in his limits, as shall make up that deficiency: and the persons employed shall be paid out of the town treasury therefor, or the town may authorize the surveyor to agree with the persons employed, that for such labor they shall be allowed on the next highway tax, or otherwise compensated, as the town may have prescribed. *s. 15.*

No surveyor shall be permitted under the authority conferred by the fifteenth section of the act, [*ch. 118, above*] to expend a greater amount, in the repair of the roads in his limits, beyond the sum committed to him for the current year, than fifteen per centum on the amount of the highway tax committed to him. *ch. 300, s. 2.*

6. If any surveyor who shall receive his rate bill of the Selectmen or Assessors of any town shall neglect to exhibit the same to them on the first Monday of July annually, and also at the expiration of the term for which he shall be appointed, and at those times respectively to render an account of all moneys that have been expended on the ways, he, for each offence, shall forfeit and pay twenty dollars, to be recovered in an action of debt with cost of suit by the Treasurer to the use of the town. *ch. 118, s. 1*

. Surveyors, chosen and sworn may cut down, lop off, up and remove all sorts of trees, bushes, stones, fences, gates, bars, enclosures, or other matter or thing that straiten, hurt, hinder, or incommode the highway, and to dig for stone, gravel, clay, marle, sand or earth, in land not planted or enclosed, and the materials thus dug to remove to such place in the highways, for the repair or amendment thereof as they shall determine necessary. *Provided*, no surveyor shall cause any water course occasioned by the wash of any highway to be so conveyed by the side of such highway as to incommode any person's house, shop, or other building, or to obstruct any person in the prosecution of his business or occupation, without the consent of the Selectmen in writing to such surveyor : And any person aggrieved by such water course, may complain to the Selectmen of such town or other place : and the Selectmen on receiving such complaint, shall proceed to view the water course so complained of, and after attending to the circumstances of the same, shall if they think it reasonable, direct such surveyor to alter the said water course in such way and manner, as they shall think just and proper. 118, s. 14.

3. When any logs, lumber or other obstructions shall, by any person be unnecessarily placed or left on any highway, it shall be the duty of the surveyor within whose limits the same may be so placed, or left, or in his absence, of any other surveyor within the town, forthwith to remove the same : and the person so removing the same shall not be liable for any loss or damage happening thereto by such removal, unless such loss or damage was occasioned by gross negligence or design ; and on conviction of any person of having obstructed any highway in manner aforesaid, he shall be punished by a fine not exceeding five dollars to the use of the town, and double the expense of the removal, to the use of the person who shall have removed the same, or such person may recover the double of such expense to his own use in an action on the case. *Provided*, nothing in this Act shall give power to any surveyor or other person to remove or pull down any fence which may be lawfully set up for the purpose of preventing the spreading of infectious disorders. s. 25.

9. Whenever any logs, lumber or other obstructions shall be left on any highway, the owners of which may be unknown, it shall be the duty of the Surveyor within whose limits the same may be left, and in case of his neglect, of any other Surveyor of highways within said town, forthwith

to remove the same; and the Surveyor in removing the same, shall not be liable for any loss or damage happening thereto by such removal: And the Surveyor shall have power to sell at public vendue, so much thereof as shall be sufficient to pay him for the trouble and expense of removing the same, with charges of sale; first giving notice of the time, place and cause of such sale by posting up notification in two public places in said town, seven days at least prior to the sale. *ch. 495.*

10. When the highways are blocked up or incumbered with snow, the surveyor shall forthwith cause so much thereof to be removed or trodden down as will render the road passable, and in such way and manner as the town shall direct at their annual meeting; and in case of any sudden injury to bridges or highways he shall, without delay, cause the same to be repaired. *ch. 118, s. 13.*

11. Every town may at their annual meeting or any meeting warned for that purpose, authorize their surveyors, or other persons to enter into contracts for making or repairing the highways within the same or any part thereof: and may also empower their surveyors to collect taxes for making or repairing the ways which shall not be paid in labor or otherwise within the time limited by law, or such periods as may be agreed upon by such town, and for that purpose the assessor shall deliver to them warrants of distress which shall be in form prescribed by law for collecting other town taxes *with the necessary alterations*; or they may deliver to Collectors of taxes a warrant for collecting the deficiency of any highway tax which the Collector may levy in the same way and manner as other taxes are by law to be collected and pay the same over to the surveyor or surveyors, who shall be held to account with the Selectmen for the expenditure thereof. *s. 16.*

12. If any money shall remain unexpended in the hands of surveyors after the expiration of their office, they shall pay the same to the town Treasurer. And if any surveyor shall neglect to pay over such sum upon demand, the assessor, or his successor may recover the same, in an action upon the case, with twenty per cent. in addition to the use of the town, with costs: and if pending the action, another Treasurer shall be appointed, he, on noting his appointment on the record, shall have power to pursue the same to final judgment and execution. *ib.*

C.—Liabilities of towns, of Surveyors, and of others,
in cases of injury through defect of ways.

§ 1. If any person shall lose a limb, break a bone, or receive any other injury in his person, or in his horse, team or other property, through any defect or want of necessary repair and amendment of any highway, causeway or bridge: the person or persons injured thereby shall and may recover of the county, town, or the persons who are by law obliged to keep the same highway, causeway, or bridge in repair, in case they had reasonable notice of the defect, double the damages thereby sustained, by a special action of the case, before any Court proper to hear and determine the same. *ch. 118, s. 17.*

Instead of the double damages, given by the seventeenth section of the act aforesaid [*ch. 118.*] the party recovering damages therein mentioned, shall be entitled to single damages only. *ch. 300, s. 3.*

2. If the life of any person shall be lost through the deficiency of the way, causeway or bridge, or for want of rails on any bridge, the county, town, or persons who are by law obliged to repair and amend the same, shall be liable to be amerced in the sum of three hundred dollars, to be paid to the executor or administrator of the deceased for the use of his heirs, upon a conviction before the C. C. Pleas, or S. J. Court on a presentment or indictment of the Grand Jury. *ch. 118, s. 17.*

3. In case the inhabitants of any town shall be fined upon the presentment of the Grand Jury, or upon the information of the Attorney General, or the person acting for the State in his absence, for a deficiency in the highways, the surveyor, within whose limits, the deficient ways are, shall be liable to refund the same, with all costs, to the said inhabitants upon an action of the case to be brought therefor, or the surveyor of highways may be prosecuted on presentment or information as aforesaid, and fined for any deficiency that may arise in his limits: *Provided*, such deficiency shall arise from the negligence of the surveyor in not duly expending the money in his bills, or in not giving notice of such deficiency to the Selectmen, in case the sum raised for the repair of the highways by the town, shall be found insufficient for that purpose. *s. 18.*

4. All fines imposed by the Supreme Judicial Court or by the Court of Common Pleas within this State, on any town for any neglect in making or repairing any highways or bridges within the same, shall be appropriated and disposed of, for

the making and repairing the highways and bridges so defective as aforesaid. *ch. 118, s. 20.*

D.—Power of towns to choose Road Commissioners, their power and duty.

§ 1. When any town, at its annual town meeting for the choice of town officers, shall determine by vote, to choose Road Commissioners in lieu of Surveyors of highways, they are empowered to elect by ballot any number of Road Commissioners not exceeding five, whose term of office shall extend to the next annual meeting for the choice of officers, and who shall be sworn to the faithful discharge of their trust. And all vacancies in the board of Commissioners may be supplied in an election by ballot at any town meeting called for the purpose. And such Commissioners shall have the rights and powers, and be subject to all the liabilities, duties and penalties conferred or enjoined upon Surveyors of highways, except as may be otherwise provided in this act. *ch. 549, s. 1.*

2. Instead of having limits assigned by the Selectmen, the Commissioners, or a major part of them may at any time assign the care, charge and oversight of any of the public roads in the town to any of their own number. And the town may make reasonable compensation to the Commissioners for their services, or may authorize the Selectmen to ascertain and fix the same. *ib.*

3. When more than one Road Commissioner shall have been elected by any town and accepted the trust, the Selectmen of the town shall designate one to be the chairman of the board of Commissioners, who shall have and keep the lists or rate bills committed to them for the use of the board, shall make and keep the records and accounts of the board and shall be entitled to receive all money paid to the Commissioners, on account of such list or rate bills, to be expended in making, repair and amendment of the public roads, under the direction of the Commissioners, and to be paid out as they shall order. And said chairman shall give bond to the town for the payment of all money which may come into his hands belonging to the town, and for the faithful performance of all the duties of said office in such penal sum, and with such sureties as the Selectmen of said town shall approve. And whenever payment shall be made to said chairman of any money for discharging any tax,

shall give his receipt therefor showing on what account the same was paid ; and for unreasonably refusing to give such receipt at the time of such payment, if the same be requested, he shall forfeit to the person or party aggrieved a sum not exceeding ten dollars. *ch. 549, s. 7.*

4. Where commissioners shall have been chosen and sworn, the Assessors shall on request, deliver to them a list or rate bill of all highway taxes by them assessed payable in labor or materials on the highways and public roads, with a statement of the rates and prices affixed to the same by the town. And if there be more than one Commissioner, they or a major part of them may distribute the taxes contained in said list or rate bill, or any part of the same, as they may judge expedient, to any one or more of their number, to be worked out or otherwise collected under his or their charge ; and may likewise delegate to any one or more of their number the power to appoint the times and places for any person taxed in said rate bills, who shall be designated on a distributive list under the hands of said Commissioners or a major part of them to furnish labor and materials for paying said taxes. And the Commissioner or Commissioners, so delegated shall have power to give notice to such persons of the times and places by him or them appointed for providing labor and materials ; and his or their certified return showing that he or they had given to any such person or their agents the term of notice which the law requires ; and that such person has neglected to pay and discharge their said taxes or the part or portion thereof so distributed, shall be conclusive evidence of such refusal or neglect, to the amount thereof specified in such return. *s. 2.*

5. Any town choosing Road Commissioners, may at their annual meeting in March or April, by vote, determine what sum of money shall be deemed an equivalent to one dollar of any sum which may be voted, raised, and assessed in such town payable in labor or materials at the prices and rates affixed by the town. And the Road Commissioners of such town are authorized and directed to receive money in payment of any tax to them committed, at the rate of such equivalent, at any time, before they have returned the same as delinquent to the Assessors. And when any person, liable to pay any such tax, shall tender to either of such Commissioners the amount of such tax as contained in the list or rate bill committed to them, at the rate of such equivalent, such Commissioners shall not make return of such tax to the Assessors, as delinquent, unless there has been a new

and subsequent demand of the payment of such tax, and a neglect or refusal to pay the same. And any Commissioners who shall return as delinquent, to the Assessors, any tax so tendered to them shall be liable to pay to any person aggrieved thereby three times the assessed amount of such tax, and to make good all damages arising from such false return. *ch. 549, s. 6.*

6. In all cases of non-resident proprietors or owners of real estate, who have not lodged or entered with the town clerk, the name of their attorney or agent resident in said town, and in all cases of persons contained in the list or rate bill, and who are absent from the town, having no agent therein, known to the Commissioners, they or a major part of them may post up a list by them certified of such non-resident proprietors, owners and absent persons, with the amount of taxes, assessed on each, committed to the Commissioners and remaining unpaid, together with a notice that they are ready to proceed to appoint the times and places for providing materials, and for labor, to pay and discharge such taxes, and if no person shall appear to pay and discharge such taxes by labor, materials or otherwise, as authorized by law, within twenty days after such lists and notice have been posted up in two public places in the town, the said Commissioners may certify and return to the Assessors the times and places of their posting the lists and notices and that the same remain unpaid; and the proceedings aforesaid shall be considered sufficient notice to such proprietors, owners and absent persons of their opportunity to discharge such taxes, by providing materials and labor at the rates and prices fixed by the town, and the same shall be conclusive evidence of their refusal or neglect so to discharge such taxes. *s. 3.*

7. Said Road Commissioners or the major part of them shall, from time to time, certify and return to the Assessors a list of all the persons, resident and non-resident proprietors and owners of estates, together with the amount of highway taxes contained in the list committed to them, for which each such person, proprietor or owner is delinquent; and it shall be the duty of the Assessors, on request of said Commissioners to certify said list of delinquent taxes, with the proceedings thereon, as certified and returned to them, to the Road Commissioners, and to commit the same, together with their warrant authorizing the collection thereof, to *such* Collector of taxes of said town as said Commissioners may designate, to be collected in the same manner as other taxes assessed by towns are collected. *s. 4.*

8. Said Road Commissioners or the major part of them are authorized to appoint one of their number, or any other inhabitant of said town, a Collector of delinquent highway taxes for said town, and such Collector having accepted the trust, by taking a like oath to that required of other Collectors of town taxes, shall have all the powers of such Collectors, and shall give bonds to and for the use of the town, for the faithful performance of his trust as said Commissioners shall direct and approve ; and receive such compensation as shall be allowed by the town, or fixed and agreed upon by said Commissioners.

9. The Collector to whom shall be committed the delinquent highway taxes, shall from time to time when requested, be held to render an account of, and pay over to said Road Commissioners, all the money by him collected for any delinquent highway taxes committed to him. And in case such Collector shall not close the collection of said delinquent taxes, account for, and pay over the same to the Road Commissioners before the next annual meeting after the commitment to him of the same for collection, he shall be held to render an account of his tax bills and to pay over all money by him collected to the Treasurer of the town, in the same manner as collectors of other taxes ; and said Treasurer may have and take like remedies to enforce the rendering of such account as he may have and take against the collectors of other town taxes. s. 5.

LUMBER.

A.—Of Surveyors and Measurers of boards, timber and slit work, and Surveyors of shingle clapboards, staves and hoops;

Of Viewers and Cullers of staves and hoops.

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| <p>§ 1. Choice of Surveyors and Measurers; their oath.</p> <p>2. Choice of Viewers and cullers; their oath.</p> <p>3. Fines for refusal to serve.</p> <p>4. Boards, plank, timber and slit work, to be surveyed previous to sale.</p> <p>5. Shingles to be surveyed before sale.</p> <p>6. Tale of hoops and staves.</p> <p>7. Staves to be culled and hoops viewed and surveyed before exportation.</p> <p>ib. Officer to give certificate of the quantity.</p> | <p>7. The bands to be seal town brand.</p> <p>8. Officers shall give cer of the survey, &c. and quantity of shingles portation.</p> <p>9. Forfeitures for fraud.</p> <p>ib. Forfeitures for refusal vices.</p> <p>10. Fees for survey of &c.</p> <p>11. Fees for survey of shingle and clapboards.</p> <p>12. Fees of Viewers and cullers.</p> |
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B.—Of Surveyors of Logs.

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| <p>§ 1. To be appointed by Selectmen; their oath.</p> | <p>2. Their duty.</p> <p>3. Their fees.</p> |
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A.—Of Surveyors and Measurers of boards, p timber and slit work, and Surveyors of shingle clapboards, staves and hoops;

Of Viewers and Cullers of staves and hoops.

§1. There shall be one or more suitable persons el in every town in this State, at their annual meeting in month of March or April, to be surveyors and measur boards, plank, timber and slit work, and surveyors of shingle clapboards, staves and hoops, who shall be sworn to the full performance of the trust reposed in them. ch. 158

2. And in each maritime town in this State from whence staves or hoops are usually exported beyond sea, there shall be two or more suitable persons chosen by such towns, at their annual meeting in March or April, to be viewers and assessors of staves and hoops, who shall be under oath faithfully to discharge their office. *ch.* 158, *s.* 1.

3. If any person or persons, who shall be duly chosen to serve as a surveyor of boards, clapboards or shingles, or as a culler of staves or hoops, shall refuse or neglect to take an oath for the faithful discharge of the office, or to serve therein, every such person or persons shall pay the sum of three dollars, to the use of the poor of the town choosing such person or persons, and every such town shall proceed to the choice of other or others in the room of any person so refusing or neglecting, and so *toties quoties.* *s.* 9.

4. All boards, plank, timber or slit work offered for sale, shall, previous thereto, be surveyed, and also measured by one of the said surveyors, where he shall have any doubt of the measure, having due consideration for drying and shrinking, who shall also mark anew all such to the just contents thereof making reasonable allowance for rots, knots, and splits.* *s.* 1.

*No pine boards shall be shipped for exportation to foreign markets : such as are square edged, and not less than seven eighths of an inch thickness, and not less than ten feet in length, on pain of being forfeited to the use of the town where they shall be shipped : *Provided*, that a proper allowance shall be made for drying and shrinking of pine boards, and that such as shall be three fourths of an inch thick after being fully seasoned, or in the same proportion as to thickness, being fully seasoned, shall be accounted merchantable, and may be sold here or shipped or exported to any market. *ch.* 158, *s.* 2.

As to shingles, clapboards, staves or hoops shall be offered for sale in any town in this State, that shall be under the following dimensions, all shingles shall be split crossways the grain, and be eighteen inches long, unless those made for home use ; pine shingles shall be free from sap, and all shingles be free from shakes and worm holes, and shall be half an inch thick at the butt end, when green, and full seven eighths of an inch, when thoroughly seasoned, if for exportation to a foreign market : and not less than one third of an inch thick at the butt, when fully seasoned, if for home use, and four inches wide on an average, and none less than three inches wide, and shall hold in width three fourths of the way to the thin end, and be well shaven, and each bundle shall contain two hundred and fifty shingles ; or if made in square bundles, shall contain twenty-five courses, and measure twenty-two inches and a half at the lay : and in case there shall be more than five shingles in any one bundle that are under the above length, width or thickness, or five short in the tale of any one bundle of two hundred and fifty, the bundle which is so deficient, or in which such shingles are contained, shall be forfeited, and the shingles in each bun-

5. Before any shingles are sent from the town where they are made, or at the place of first sale, before their due they shall be viewed, surveyed and measured by a surveyor, and the town brand set upon the hoop of the shingle. *ch. 158, s. 3.*

Shingles which are not merchantable, shall be burnt and the residue and the money arising from the sale shall be paid into the hands of the town Treasurer for the benefit of the poor of such town where the shingles are condemned, first deducting therefrom the charge of surveying. And all shingles offered for sale without being viewed and marked as aforesaid, (see above, *s. 5.*) shall be forfeited and disposed of as before provided. *ch. 158, s. 3.*

Notwithstanding the directions prescribed in the third section of the act aforesaid, relating to shingles to be shipped to a foreign market, it shall be lawful to offer for sale in any town in this State, shingles of other qualities, inferior in dimensions and quality to those mentioned in said act. And it shall be the duty of surveyors to inspect and mark such shingles of inferior qualities or less dimensions and to classify them accordingly under the names of No. 2, No. 3; and those designated in the act aforesaid shall be considered as No. 1. *ch. 250, s. 1.*

All staves shall be well and proportionably split. And all white oak butt staves, shall be at least five feet in length, five inches wide and one inch and a quarter thick on the heart or thinnest edge, and one part thereof. All white oak pipe staves, shall be at least four feet in length, eight inches in breadth in the narrowest part, and not less than three quarters of an inch thick on the heart or thinnest edge.

All white oak hogshead staves shall be at least forty-two inches long, and not less than half an inch thick on the heart or thinnest edge.

All white oak barrel staves, for a foreign market, shall be thirty inches long; and for home use shall be thirty inches long; and be half an inch thick on the heart or thinnest edge.

All white oak hogshead and barrel staves shall be at least one inch wide, and four inches in breadth and none less than three inches in breadth in the narrowest part; and those of the breadth last mentioned shall be clear of sap.

All red oak hogshead and barrel staves, shall be of the same width and thickness with the white oak hogshead and barrel staves above mentioned.

All pine clapboards that shall be exposed to sale, shall be of good sound timber clear of sap, and all clapboards shall be free from shakes and worm holes, and of the following dimensions, viz: five eighths of an inch on the back or thickest part, five inches wide and four feet six inches long, and they shall be straight and well edged or sawed.

All hogshead hoops that shall be exposed to sale, or exported, shall be from ten to thirteen feet in length and shall be made of white oak or walnut, and of good and sufficient substance, well shaved and straight. Those made of oak shall be not less than one inch broad, at the least end; those made of walnut shall be not less than three quarters of an inch broad at the least end; each bundle shall consist of thirty hoops, all hoops of ten, twelve and thirteen feet respectively, shall be packed up in distinct bundles by themselves: and if any hoops are of less dimensions than those prescribed by this law, or if a

6. All staves that shall be exported from this State beyond sea, shall be first culled, and all hoops first viewed and surveyed by one of the officers aforesaid, and a certificate given by the culler or surveyor, to the master or commander of the ship or vessel on board which they are laden, of the quantity by him so culled or surveyed; and the bands with which the bundles of hoops are bound, shall be sealed with the brand of the town from whence they are exported. *ch. 158, s. 4.*

7. All hoops and staves shall be sold or exchanged as follows, viz: Twenty-five hoops shall constitute one bundle; four bundles one hundred; ten hundred one thousand; two staves shall constitute one cast; fifty casts one hundred, and an hundred one thousand; and all other articles usually sold by tale shall be sold by the decimal hundred. *ch. 404, s. 2.*

8. All shingles and clapboards that shall be exported beyond sea shall likewise be certified by one of the surveyors already required by law to be chosen in each maritime town within this State, to have been by him surveyed, viewed and approved and the number or quantity thereof. *s. 4.*

9. In case any culler or surveyor shall connive at, or allow of the breach of this act, or shall be guilty of any fraud or deceit in surveying or culling of boards, staves, hoops, clapboards, or shingles, he shall forfeit and pay the sum of fifty dollars for each offence; and in case of his refusal to attend the aforesaid service, when he shall be thereto request-

shall contain less than thirty hoops, such bundle shall be forfeited and sold for the benefit of the poor of the town where it is offered for sale. *ch. 250, s. 3.*

The master or owner of any vessel having any staves, hoops, boards, clapboards or shingles on board for their cargo, and which shall be shipped for exportation to a foreign market, shall, before such vessel shall be cleared at the custom house, produce to the collector a certificate of such staves, hoops, clapboards boards and shingles, having been culled or surveyed. Wherever the restriction upon the shipping of any kind of lumber is mentioned in any of the clauses of this act to or for any foreign market, or beyond sea, the same shall be considered and understood to extend to any port or place not within this State. *s. 8.*

By this act, (*ch. 158,*) various forfeitures are incurred for the sale, purchase, and exportation of lumber not previously culled or surveyed and marked.

The 7th. and 8th. sections of said act are repealed so far as relates to lumber exported coastwise unless the shippers shall prefer to have their lumber surveyed or inspected as provided in said act. *ch. 250, s. 2.*

to which such private belongs shall forthwith lay such certificate before the Selectmen of the town or district where such private resides. And it shall be the duty of such Selectmen, forthwith, at the expense of their respective towns or districts, to provide for every such private, the arms and equipments required as aforesaid, and they shall deposit the same in some safe and convenient place, and shall permit the commanding officer of the company, to which such private, unable to provide himself, as aforesaid belongs, to deliver such arms and equipments to such private, whenever his company shall be ordered out for any military duty. And the said commanding officer shall be responsible for the safe return of such arms and equipments to the place of deposit. *ch. 643, s. 15.*

4. All parents, masters or guardians, shall furnish all minors enrolled in the militia, who shall be under their care respectively, with the arms and equipments, required by law: *Provided however*, That such parents, masters, or guardians as shall produce, on or before the first Tuesday of May annually, certificates from the Overseers of the poor of the town or district in which they reside of their inability to provide arms and equipments as aforesaid, to the commanding officer of the company in which the minor under their care is enrolled, shall be exempted from forfeitures. *s. 33.*

5. Whenever in case of threatened or actual invasion, insurrection, or other public danger or emergency, the Militia or any part thereof, after having been ordered out or detached shall be ordered to march for the service of this State, each non-commissioned officer and private, so ordered to march, shall provide and take with him three days provisions, unless otherwise ordered. And the Selectmen of every town and the Assessors of every plantation to which the men detached as aforesaid, and ordered to march for the service of this State, belong, shall provide and cause carriages to attend them with further supplies and provisions, and also the necessary camp equipage and camp utensils, until notice shall be given them by the commanding officer of the detachment to desist, and the Selectmen and Assessors shall present their accounts for supplies to the Legislature for allowance. *ch. 643, s. 29.*

6. Whenever the Selectmen of any town or Assessors of any plantation from which a detachment or part thereof as aforesaid shall march, and being notified by the commanding officer of such detachment or part thereof, belonging to such town or plantation, shall neglect or refuse to furnish

essary supplies, camp equipage, and camp utensils, the
: plantation to which the Selectmen or Assessors,
ing or refusing as aforesaid, belong, shall forfeit
: than two hundred nor more than five hundred dol-
ch. 643, s. 29.

he twenty-eighth section of the Act to which this is
al is so altered and amended, that all officers and
ns, actually doing Military duty on the day of inspec-
d review shall receive from the Mayor and Aldermen,
en, and Assessors of the respective cities and Towns,
tations, in which they reside the sum of fifty cents
lieu of rations. ch. 209, s. 8. *March*, 1836.

MODERATORS.*

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| <p>§ 1. Choice of Moderators.</p> <p>2. May administer oath to town Clerk in case.</p> <p>3. When a vote is scrupled, they may poll the voters.</p> <p>4. Their power to preserve order.</p> | <p>4. Fine for disorderly conduct</p> <p>5. Proviso as to meetings choice of Governor, Senate and Representatives.</p> <p>6. Certificate of oath to town Clerk.</p> |
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§ 1. At every town meeting, a Moderator shall be chosen by a majority of votes, and by written ballots, and shall be thereby empowered to manage and regulate the business of the meeting. *ch. 114, s. 3.*

2. The moderator of any town meeting, chosen as aforesaid, is hereby authorized, in case no Justice of the Peace be present, to administer to the Clerk in open town meeting the oath by law prescribed to the same office. *s. 1.*

3. When a vote declared by the Moderator, shall immediately after such declaration be scrupled or questioned seven or more of the voters present, the Moderator shall make the vote certain by polling the voters, or such other way as the meeting shall desire. *s. 3.*

4. No person shall speak in the meeting before leave first had and obtained from the Moderator, nor when any other person is orderly speaking; and all persons shall be silent at the desire of the Moderator on pain of forfeiting one dollar for the breach of every such order, to the use of the town and if any person shall after notice from the Moderator persist in his disorderly behaviour, then it shall be lawful for the Moderator to direct such disorderly person to withdraw from the meeting; and such disorderly person upon his refusal or neglect to withdraw, shall forfeit and pay a fine of three dollars, to the use of the same town; and may at the direction of the Moderator be carried out of the meeting by some Constable of said town, and put into some place of confinement and there be detained for the space of twelve hours, unless the town meeting shall sooner adjourn or dissolve. *ch. 114, s. 3.*

*For the choice, powers and duties of Moderators of plantation meetings, see Plantations.

For choice, powers and duties of Moderators of parish meetings see Parishes.

5. Town meetings for the choice of Governor, Senators and Representatives, shall be had as the Constitution directs; any thing in this Act contained to the contrary notwithstanding. *ch. 114, s. 3.*

Certificate of Oath to Town Clerk.

6. Town of A——. March 8, 184 . Then personally appeared in open town meeting C. D. and made oath that he would truly record all votes passed in that and other town meetings during the year and until another Clerk shall be chosen and sworn in his stead, and also that he would faithfully perform all the other duties of the office of Clerk of said town.

Before me, (no Justice of Peace being present.)

E. F. Moderator of said town meeting.

OFFICERS*.

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| § 1. Officers, when sued for official acts, may file a brief statement of special matter and give it in evidence under the general issue. | 2. Forfeiture for not rendering an account of, and specifying fees when required.
3. Forfeiture for demanding and receiving excessive fees. |
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§ 1. In all actions now depending or that may be hereafter depending in any Court within this State, wherein the defence intended to be set up by the defendant is or may be, that he was a Justice of the Peace, Sheriff, deputy Sheriff or Coroner, or a town or parish officer or some other officer civil or military, and that the act or thing for which he is or may be sued, is or may be any act or thing done by him by virtue, or in the execution of his office, the defendant may plead the general issue, and give the special matter in evidence, upon filing in the cause a brief statement of such special matter of defence, within such time as the Court shall order, of which statement the plaintiff shall be entitled to a copy, or he may plead specially at his election. *ch. 59, s. 22.*

2. Every officer or other person upon receiving any such fees as are stated in this Act shall, if required by the person paying the same, make out a particular account of such fees in writing, specifying for what they accrued, upon pain of forfeiting to the party paying such fees treble the sum by him or them so paid, to be recovered with costs by an action of debt in any Court proper to try the same. *ch. 105, s. 4.*

3. If any person shall wilfully and corruptly demand and receive any greater fee or fees for any of the services aforesaid, than are by this Act allowed and provided he shall forfeit and pay, not less than five dollars, nor more than thirty dollars for every offence, to be recovered with costs, either by presentment in the Supreme Judicial Court or Court of Common Pleas, in which case the forfeiture shall accrue to the State; or by action of debt in any Court of competent jurisdiction; in which case the forfeiture shall be for the use of any person who may sue for the same: But no such presentment or action shall be sustained, unless made or commenced within one year next after the time when the offence may be committed. *s. 5.*

* A ministerial officer can do no valid act, but what he is, either expressly or by necessary implication authorized to do. *7 Mass. Rep.*

OVERSEERS OF THE POOR AND OF HOUSES OF CORRECTION.

A.—Duty of towns to support poor persons ; their right to recover expenses therefor in certain cases.

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| <p>§ 1. Towns to support paupers settled therein.</p> <p>2. They shall pay inhabitants affording relief, &c.</p> <p>3. They may recover expenses for imprisoned debtors, of creditors.</p> | <p>4. They may sue paupers for expenses.</p> <p>5. They shall pay expenses incurred by keeper of house of correction.</p> <p>6. They shall pay expenses of pauper's burial.</p> |
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B.—Proceedings upon the complaint of towns or individuals to oblige persons to support their poor relations.

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| <p>§ 1. What degree of kindred liable.</p> <p>2. Court may assess and apportion sums ;</p> <p>ib. May issue warrant.</p> <p>§ 3. May assess weekly sums.</p> <p>ib. Warrant for arrears.</p> | <p>4. Residence of pauper.</p> <p>ib. Other kindred may be compelled to contribute.</p> <p>ib. When costs for respondent.</p> <p>ib. Court may take further order thereon.</p> |
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C.—Mode of gaining legal settlements.

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| <p>§ 1. By marriage.</p> <p>2. By birth.</p> <p>3. Settlement of illegitimate children.</p> <p>4. By admission.</p> <p>5. By incorporation of places.</p> <p>6. By division of towns.</p> | <p>7. By apprenticeship.</p> <p>8. By residence for 5 years, &c.</p> <p>9. By residence at the date of the act, &c.</p> <p>10. Settlements to continue till new ones gained.</p> <p>11. Repeal of former laws.</p> |
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- D.—The choice of Overseers of the poor ;**
 Their power to prosecute and defend actions in behalf of towns.
 Their general duty in the care and oversight of the poor settled in their towns, and of those living in unincorporated places ;
 Appropriation of license money.

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| <p>§1. Choice and number of Overseers.
 ib. Selectmen to be Overseers, if no special choice.
 2. Their power to prosecute and defend, by themselves or attorney, in behalf of towns.
 3. Action not to abate by death of some of them.</p> | <p>4. Their duty in the care and oversight of the poor settled in their towns.
 5. Of those living in unincorporated places.
 6. License money, how appropriated.</p> |
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- E.—Their power to bind out children ; to employ or bind out adults ; and herein of their duty, and the remedies of the respective parties, in case of grievance or misbehaviour.**

- (a) Their power to bind out children of persons in habitants of their town.**

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| <p>§ 1. They may bind out children of parents unable to maintain them.
 ib. Provision for the instruction of the children.
 2. Their duty to defend children from injury.
 3. They may complain and Court may discharge, &c. in certain cases.
 ib. As to respondent's costs.
 4. Where apprentice, &c. to be bound out anew.</p> | <p>5. Owners' remedy for breach of covenants ; damage to go to benefit of apprentice, &c.
 ib. Court may liberate apprentice &c.
 6. Remedy of apprentices, &c. at the expiration of the term.
 7. Master's Remedy in case of elopement.
 ib. Liability for enticing or harboring eloper.
 8. Remedy of master, in case of misbehaviour.</p> |
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-) Their power to employ or bind out adults settled in their town, or not settled in the State ;
 Their power in regard to paupers, and their children, residing in unincorporated places.

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| 1. Able bodied idlers, &c. may be bound out.
. Remedy of aggrieved persons.
. Their duty as to paupers in unincorporated places.
. May bind out the children of such paupers. | 4. Adult paupers in such place, may be employed or bound out.
ib. Earnings of such paupers how applied.
ib. Like remedy for grievance, as in towns. |
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—Their duty relative to the support, employment, removal or burial of strangers having settlements in other towns, and of those not settled in the State.

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| . Relief, &c. of those who have settlements.
. Expenses three months previous to notice may be recovered.
. Method of recovery and limitation of suit. | 2. In what cases towns shall be barred from disputing settlement.
3. Relief, &c. of those not settled in the State.
ib. Expenses thereof, how paid.
4. Such paupers may be sent out of State, or to work house. |
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—Proceedings in order to effect removal of persons chargeable, or likely to become so, to the places of their lawful settlement.

) By written notification to Overseers of other towns.

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| . Overseers may make written statement to overseers of supposed place of settlement ;
. Who may remove paupers. | 2. In what cases the town of supposed settlement is liable, and barred from contesting settlement.
3. Penalty for voluntary return of pauper. |
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(b) By complaint before a Justice of the Peace.

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| . Overseers may complain to a Justice of the Peace.
Proceedings thereupon.
When costs shall be awarded to town complained of.
. Warrant of removal, by whom it may be executed ; | 5. Overseers of town complained of to receive pauper when removed.
ib. Justice may award execution for damages and costs.
6. Parties may appeal to Court of Common Pleas.
ib. Proceedings on appeal. |
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(c) By complaint to Court of Common Pleas.

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| <p>§1. Mode of complaint in Court of Common Pleas.
 ib. Proceedings therein.</p> <p>2. Parties entitled to writ of error.
 ib. Proceedings thereupon in Supreme Judicial Court.</p> | <p>3. Depositions may be used on trial.</p> <p>4. When expenses of support prayed for, judgment to be had though pauper decess.</p> |
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H.—Their authority in relation to imprisoned debtors, when chargeable ;

In what cases they may take possession of and sell property of deceased paupers.

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| <p>§1. Overseers of towns containing a jail, may set to work imprisoned debtor, if chargeable.</p> <p>2. Spiritous liquors not to be permitted without consent of Overseers.</p> | <p>3. Penalty for violating this provision.</p> <p>ib. Duty of Overseers, &c. to prosecute offences against the same.</p> <p>4. They may sell personal property of deceased paupers, in certain cases.</p> |
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I.—Their duty relative to intemperate paupers ;

Their power to discharge from houses of correction.

Their agency in the sale of real estate of spend-thrifts, &c.

Proceedings relative to infamous houses. ,

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| <p>§1. Intemperate paupers to be sent to house of correction.</p> <p>ib. By whom expenses thereof defrayed.</p> <p>2. Proceedings in order to discharge from houses of correction.</p> <p>3. Their consent necessary in order to procure license for sale of real estate of spend-thrifts, &c.</p> | <p>4. Necessary also for sale of the whole, &c. where partial sale would be injurious.</p> <p>5. As to sale of real estate of wards living out of the State.</p> <p>6. They may prosecute keepers of infamous houses.</p> <p>ib. Disability of those convicted thereof, unless licensed by Overseers.</p> |
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C.—Penalty for bringing and leaving paupers in towns where they have no settlements.

Duty and liability of masters of vessels introducing into the State persons having no settlement therein.

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| <ul style="list-style-type: none"> 1. Penalty for bringing and leaving paupers where not settled. 2. Masters of vessels to leave with Overseers or Selectmen a list of passengers, and of | <ul style="list-style-type: none"> their names and residence. 3. Masters to give bonds before landing passengers. 4. Penalty on master's violating the above provisions. |
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L.—Towns authorized to build Houses of Correction. Selectmen to appoint Overseers. Their power and duty.

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| <ul style="list-style-type: none"> 1. Towns empowered to build Houses of Correction. b. Persons liable to be committed. 2. Overseers to be appointed by Selectmen. b. To appoint master and make rules, &c. 3. Overseers may commit common drunkards, &c. | <ul style="list-style-type: none"> 4. Officer or other person to serve mittimus. 5. Keeper to supply persons committed with bread and water, &c. ib. Expenses to be paid by town. ib. Compensation of Overseers and keeper. 6. Right of appeal. |
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M.—Forms.

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| <ul style="list-style-type: none"> 1. Notice to the overseers of the poor of the supposed place of settlement of a pauper. 2. Indenture to bind out poor children. 3. Indenture to bind out persons of age. 4. Application to a Justice of the Peace for removal of persons chargeable, or likely to become so, to the places of their lawful settlement. 5. Complaint to a Justice of the Peace for a warrant to remove paupers having no settlement in the State, to another State or to a place beyond sea. 6. Complaint to a Justice of the | <ul style="list-style-type: none"> Peace for warrant to commit intemperate paupers to the house of correction. 7. Complaint in order to procure the discharge of an apprentice or servant on account of the master's ill treatment. 8. Master's complaint in order to procure the discharge of apprentice or servant for gross misbehaviour. 9. Order for the discharge of a person from the house of correction. 10. Complaint against a person suspected of keeping a house of ill fame. 11. Mittimus to house of correction. |
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A.—Duty of towns to support poor persons ; their right to recover expenses therefor in certain cases.

§ 1. Every town within this State shall be holden to relieve and support all poor and indigent persons, lawfully settled therein, whenever they shall stand in need thereof; and may vote and raise moneys therefor, and for their employment, in the same way that moneys for other town charges are voted and raised. *ch. 122, s. 3.*

2. Every town shall be holden to pay any expense which shall be necessarily incurred for the relief of any pauper by any inhabitant, not liable by law for his or her support, after notice and request made to the Overseers of the said town, and until provision shall be made by them. *s. 18.*

3. Every town which shall be liable for, and shall have paid any of the charges of maintaining in prison, any person as a pauper, hereafter committed on mesne process or execution, in any civil action, may recover the same in an action at law against the creditor, at whose suit such debtor shall have been committed, and for the time he shall continue so imprisoned, at the suit of such creditor, at the rate of one dollar and twenty-five cents for the support of such debtor, per week : *Provided*, That no part of this section shall apply to any commitment for debts contracted, or for any cause of action which accrued on or previous to the fourteenth day of March eighteen hundred and twenty. *s. 13.*

4. The inhabitants of any town within this State, who have incurred expense for the support of any pauper whether he was legally chargeable to them by means of his settlement or not, may recover the same against such person, his executors or administrators, in an action of assumpsit, for money paid, laid out, and expended for his use. *s. 19.*

5. Whenever there shall be due to the keeper of the house of correction any sums, allowed by the Court of Sessions, for keeping, supporting and employing persons committed to such house, he may recover the same of such person, his parent, master or kindred liable to them, or of the town wherein they are settled. *ch. 91, s. 12.*

6. Expenses of the Sheriff or deputy jailer in burying deceased prisoners shall be paid by the town in which such person had a legal settlement, if such person had been an inhabitant of this State ; otherwise the expenses aforesaid shall be paid out of the treasury of this State. *ch. 92, s. 5*

3.—Proceedings upon the complaint of towns or individuals to oblige persons to support their poor relations.

§ 1. The kindred of any poor person, if any he shall have in the line or degree of father or grandfather, mother, or grandmother, children or grandchildren, by consanguinity, living within this State, of sufficient ability, shall be holden to support such pauper in proportion to such ability. *ch. 122, § 5.*

2. The Court of Common Pleas, in the county where any one of such kindred to be charged shall reside, upon complaint made by any town or kindred, who shall have been at any expense for the relief and support of any such pauper; may on due hearing, either upon the appearance or default of the kindred, assess and apportion such sum as they shall judge reasonable therefor, upon such of said kindred, as they shall judge of sufficient ability and according thereto, at the time of such assessment, with costs; and may enforce payment thereof by warrant of distress: *Provided*, such assessments shall not extend to any expense for any relief afforded more than six months previous to the filing of such complaint. *ib.*

3. They may further assess and apportion upon them such weekly sum for the future as they shall judge sufficient for the support of such pauper, to be paid quarterly till further order of Court, and upon application from time to time of the town or kindred to whom the same shall have been ordered to be paid, the Clerk of the said Court shall issue, and may renew a warrant of distress for the arrears of any preceding quarter. *ib.*

4. The Court may further order with whom of such kindred that may desire it, such pauper may live and be relieved, and for such time with one, and such with another, as they shall judge proper, having regard to the comfort of the pauper as well as the convenience of the kindred, and upon suggestion, other kindred of ability not named in the complaint, may be notified, and the process may be continued, and upon due notice, whether they appear or are defaulted, the Court may proceed against them in the same manner as if they had been named in the complaint. But if such complaint be not entered, or be discontinued or withdrawn, or be adjudged groundless, the respondents shall recover costs. And such Court may take further order from time to

time in the premises, upon application of any party interested, and may alter such assessment and apportionment as the circumstances may vary. *ch. 122, s. 5.*

C.—Modes of gaining legal settlements.

§ 1. Legal settlements in any town in this State shall be hereafter gained, so as to subject and oblige such town to relieve and support the persons gaining the same, in case they become poor and stand in need of relief, by the ways and means following and not otherwise, namely :

First, A married woman shall always follow and have the settlement of her husband, if he have any within this State, otherwise her own at the time of marriage, if she then had any, shall not be lost or suspended by the marriage. *ch. 122, s. 2.*

2. *Second*, Legitimate children shall follow and have the settlement of their father, if he shall have any within this State, until they gain a settlement of their own ; but if he shall have none, they shall in like manner follow and have the settlement of their mother, if she shall have any. *ib.*

3. *Third*, Illegitimate children shall follow and have the settlement of their mother at the time of their birth, if any she shall then have within the State, but neither legitimate or illegitimate children shall gain a settlement by birth in the places where they may be born, if neither of their parents shall then have any settlement there.. *ib.*

4. *Fourth*, Any person that shall be admitted an inhabitant by any town at any legal meeting, in the warrant for which an article shall be inserted for that purpose, shall thereby gain a legal settlement therein. *ib.*

5. *Fifth*, All persons dwelling and having their homes in any unincorporated place, at the time when the same shall be incorporated into a town, shall thereby gain a legal settlement therein. *ib.*

6. *Sixth*, Upon division of towns, every person having a legal settlement therein, but being removed therefrom at the time of such division and not having gained a legal settlement elsewhere, shall have his legal settlement in that town wherein his former dwelling place or home shall happen to fall upon such division ; and when any new town shall be incorporated, composed of a part of one or more old incorporated

owns, all persons legally settled in the town or towns of which such new town is so composed, and who shall actually dwell and have their homes within the bounds of such new town at the time of its incorporation shall thereby gain legal settlements in such new town. *ch. 122, s. 2.*

7. *Seventh*, Any minor who shall serve an apprenticeship to any lawful trade for the space of four years in any town, and actually set up the same therein within one year after the expiration of said term, being then twenty-one years old, shall thereby gain a settlement in such town. *ib.*

8. Any person of the age of twenty-one years, who shall hereafter reside in any town within this State for the space of five years together, and shall not during that term receive directly or indirectly, any supplies or support as a pauper from any town, shall thereby gain a settlement in such town. *ib.*

9. Any person resident in any town at the date of the passage of this Act, (March 21, 1821) who has not within one year previous to that date received support or supplies from some town as a pauper, shall be deemed to have a settlement in the town where he then dwells and has his home. *ib.*

10. Every legal settlement, when gained, shall continue till lost or defeated by gaining a new one; and upon gaining a new settlement, all former settlements, shall be defeated and lost. *ib.*

11. All laws heretofore made, enacting and ascertaining what shall constitute a legal settlement of any person, in any town within this State, so as to subject and oblige such town to support such person in case of his becoming poor and standing in need of relief, so far as they relate to the manner of gaining a settlement in future, be and they hereby are repealed; but all settlements already gained by force of said laws, or otherwise, shall remain, until lost by gaining others in some of the ways hereafter mentioned. *s. 1.*

D.—The choice of Overseers of the poor ;

Their power to prosecute and defend actions in behalf of towns ;

Their general duty in the care and oversight of the poor settled in their towns, and of those living in unincorporated places.

§ 1. Every town within this State may at their annual meetings, choose any number, not exceeding twelve suitable persons, dwelling therein to be Overseers of their poor ; and where such are not specially chosen, the Selectmen shall be Overseers of the poor. *ch. 122, s. 3.*

2. In all actions and prosecutions by complaint founded on this Act, for or against any town, or against any individual the Overseers of the poor thereof or any person, by writing, under their hands, appointed, shall and may appear, prosecute or defend the same to final judgment and execution, in behalf of such town ; and every act or thing required or authorized by them to be done by this Act, may be done by them, or the major part of them. *s. 21.*

3. No action brought by Overseers shall abate by the death of some of them, or by their being succeeded in office, pending the action, but it shall proceed in the name of the original plaintiffs, or the survivors of them. *s. 7.*

4. Said Overseers shall have the care and oversight of all such poor and indigent persons, so settled in their respective towns, and shall see that they are suitably relieved, supported and employed, either in the workhouse or other tenements belonging to such towns, or in such other way and manner as they at any legal meeting shall direct ; or otherwise, at the discretion of said Overseers, at the cost of such town. *s. 4.*

5. Poor persons standing in need of relief, living without the bounds of any incorporated town, shall be under the care of the Overseers of the poor, appointed in the adjoining town wherein the inhabitants of such unincorporated place are usually taxed. *s. 9.*

E.—Their power to bind out children ; to employ or bind out adults ; and herein of their duty, and the remedies of the respective parties, in cases of grievance or misbehaviour. .

(a) Their power to bind out children of persons inhabitants of their town.

§ 1. The overseers of the poor are empowered, from time to time to bind out by deed indented or poll, apprentices, to be instructed and employed in any lawful art, trade, or mystery, or as servants to be employed in any lawful work or labor, any male or female children, whose parents become actually chargeable to their town, also whose parents shall be thought by said Overseers to be unable to maintain them (whether they receive alms or are so chargeable or not,) to any citizen of this State, that is to say, male children till they come to the age of twenty-one years ; and females till they come to the age of eighteen years, or are married ; which binding shall be as valid and effectual in law as if such children had been of the full age of twenty-one years, and had, by a like deed, bound themselves, or their parents had been consenting thereto : Provision to be made in such deed for the instructing of male children, so bound out, to read, write and cypher ; and of females to read and write, and for such other instruction, benefit and allowance, either within or at the end of the term, as to the Overseers may seem fit and reasonable. *ch. 122, s. 6.*

2. It shall be the duty of said Overseers to inquire into the usage of children already legally bound out, or that may be bound out by force of this Act, and to defend them from injuries. *s. 7.*

3. Upon complaint by such Overseers, made to the Court of Common Pleas in the county where their town is, or where the child may be bound, against the master of any such child, for abuse, ill treatment or neglect ; said Court (having duly notified the party complained of) may proceed to hear the complaint, and if the same be supported, and the cause shall be adjudged sufficient, may liberate and discharge such child from his or her master, with costs for which execution may be awarded ; otherwise the complaint shall be dismissed but without costs, unless it appear groundless and without probable cause ; in which case costs shall be allowed the respondent. *ib.*

4. Any apprentice or servant, so discharged, or w master shall decease, may be bound out anew for the remainder of the term, in manner aforesaid. *ch. 122, s. 7.*

5. And such Overseers may also have remedy, by action on such deed, against any person liable thereby, for recovery of damages for breaches of any of the covenants then contained, which, when recovered, shall be placed in the town treasury, deducting reasonable charges, and disposed of by the Overseers, at their discretion, for the benefit and relief of such apprentice or servant within the term or remainder if any, to be paid to him at the expiration thereof; and the Court before which such cause shall be brought originally, and on the appeal, may also, upon the plaintiff's request, if they see cause, liberate and discharge such apprentice or servant from his master, if it hath not then already been done in the method before directed by this act.

6. And such apprentice or servant shall have like remedy when their term is expired, for damages for the causes aforesaid, other than such (if any) for which damages may have been recovered as aforesaid, by action upon such deed delivered them for that purpose, and on which no instrument shall be necessary: *Provided*, Such action be commenced within two years after the expiration of the term, and where such deed shall have before been put in suit, an attested copy from the proper officer may be used and shall have the same force as the original. *ib.*

7. In case of elopement, any such apprentice or servant may be apprehended by any Justice of the Peace of the county where he is bound, or where he may be found, on the complaint of the master, or any other in his behalf, and returned to his master by any person to whom the writ may be directed or may be first sent to the house of correction, at the Justice's discretion. And every person who brings any such apprentice or servant to elope from his master, or harboring him, knowing him to have eloped, shall be liable to the master's action for all damages sustained thereby. *ib.*

8. And the Court of Common Pleas, either in the county where the Overseers are binding, or the master of any apprentice or servant bound, live, may also upon complaint of the master, for gross misbehaviour, discharge such apprentice or servant from his apprenticeship or service, after due consideration to such Overseers and hearing thereupon. *ib.*

Their power to employ or bind out adults settled in their town or not settled in the State ;
 Their power in regard to paupers, and their children, residing in unincorporated places.

1. Said Overseers shall have power^a to set to work, or out to service by deed, as aforesaid, for a term not exceeding one whole year at a time, all such persons residing lawfully settled in their respective towns, or who have such settlement within this State, married or unmarried, under the age of twenty-one years of age, as are able of body, and have no visible means of support, who live idly and exercise no ordinary or daily lawful trade or business to get their living by ; and also all persons who are liable by any law to be sent to the house of correction, upon such terms and conditions as they shall think proper. *ch. 122, s. 8.*

Provided always, That any person thinking him or herself aggrieved by the doings of said Overseers in the premises may apply, by complaint, to the Court of Common Pleas in the county where they are bound, or where the Overseers who bound them dwell, for relief ; which Court, upon due notice to the Overseers and to their masters, shall have power, after due hearing and examination, if they find no just cause, to liberate and discharge the party coming from his or her master, and to release him or her from the care of the Overseers ; otherwise to dismiss the complaint, and to give costs to either party or not as the Court may think reasonable. *ib.*

Poor persons standing in need of relief, living without the bounds of any incorporated town, shall be under the power of the Overseers of the poor, appointed in the adjoining town wherein the inhabitants of such unincorporated towns are usually taxed ; and the same Overseers shall have the same authority to bind out the children of such poor persons as they are vested with, respecting the children of persons in like circumstances, inhabitants of the town in which they are appointed. *s. 9.*

And such Overseers may also set to work, or bind out persons, for a space not exceeding one whole year at a time, all such persons above the age of twenty-one years, married or unmarried, residing in their county, but without the bounds of any town, as are able of body, but have no visible means of support ; or who live idly, using no ordinary lawful trade or business to get their living by ; or who are

liable by any law to be sent to the house of correction; and shall receive and apply their earnings (deducting reasonable charges) to the support of them or their families, if any they have, at their discretion; saving to such persons the like remedy for relief, if they think themselves aggrieved, as is by this act provided for persons set to work, or bound out for like causes by Overseers of towns. *ch. 122, s. 9.*

F.—Their duty relative to the support, employment, removal or burial of strangers having settlements in other towns, and of those not settled in the State.

§ 1. It shall be the duty of Overseers of the poor in their respective towns, to provide for the immediate comfort and relief of all persons residing or found therein not belonging thereto, but having lawful settlements in other towns, when they fall into distress and stand in need of immediate relief, and until they shall be removed to the places of their lawful settlements; the expenses whereof incurred within three months next before notice given to the town to be charged,* as also of their removal or of their burial, in case of their

* Legal notice in this case must be in writing; so that the Overseers to whom the notice is given, may have the evidence of the notice in their possession to justify their conduct to their town.

Regularly, such notice should be signed by the greater part of the Overseers or by their order.

Perhaps, however, if an agent duly authorized should give this notice in writing under his hand, and furnish the Overseers of the town notified, with a certified copy of the vote appointing him agent for that purpose, it would be sufficient. *See 6 Mass. Rep. 501.*

The signature of one of the Overseers purporting to be by order of the whole, is a sufficient compliance with the Statute. *8 Mass. Rep. 104.*

A written notification to one of the Overseers of the town in which the settlement of the pauper is, is sufficient. *6 Mass. Rep. 501.*

A notice that the family of a certain person has become chargeable, &c. without naming the individuals, was held to be too general. Such defect, however, may be waived by the answer of the town addressed. *12 Mass. Rep. 308.*

Notice should be renewed upon every new cause of action. *14 Mass. Rep. 188.*

Notice from the Overseers of one town to those of another respecting a pauper's becoming chargeable, is not sufficient if sent by the mail. The town thus called upon is not obliged to pay the expense of postage or any other expense that may be incurred by giving them notice of the demand against them. *16 Mass. Rep. 110.*

tion: decrease, may be sued for and recovered, either in a civil action by the town incurring the same against the towns wherein such persons had such settlements, or in the method by complaint, hereafter prescribed in and by this act: (See next head, G.) *Provided*, such action or complaint for damages be commenced or preferred within two years after the cause of action arose, but not otherwise.* *ch. 122, s. 11.*

2. In such civil action the settlement of the pauper shall not be contested by the defendants, if it hath been then adjudged to be in their town upon such process as is hereinafter prescribed; otherwise it may be: and a recovery in such action shall bar the town against which the same shall be had, from disputing the settlement of such pauper in such town, with the town so recovering, in any future action or process, brought and prosecuted for the support or removal of such pauper. *ib.*

3. Said Overseers shall also relieve and support, and in case of their decease decently bury all poor persons residing or found in their town, having no lawful settlements within this State, when they stand in need; and may employ them as other paupers may be, the expense whereof may be recovered of their relations, if they have any, chargeable by law for their support in manner pointed out by this statute, otherwise it shall be paid out of the respective town treasuries. *s. 18.*

4. Upon complaint of such Overseers any Justice of the Peace in his county may by warrant directed to, and which may be executed by, any Constable of their town or any particular person by name, cause such pauper to be sent and conveyed by land or water to any other State, or to any place beyond sea, where he belongs, if the Justice thinks proper, he may be conveniently removed at the expense of the town; but if he cannot be so removed, he may be sent to

* The cause of action accrues when the expense is incurred, and the action will be barred unless it be commenced within two years thereafter.

If an action to recover expenses incurred within two years after notice of pauper, be not commenced within two years after notice to the defendant town, the right of action arising upon such notice is barred; and if more than two years have elapsed from such notice, no action can be maintained for expenses incurred subsequent to the notice, unless a new notice be given, whether the expenses were or were not paid upon the first notice. *Bigelow's Dig. 489. See 10 Mass. Rep. 411, and 12 Mass. 317, 452.*

Expenses arising within three months prior to notice, cannot be recovered more than two years before commencement of the suit. *14 Mass. Rep. 185.*

and relieved and employed in the house of correction or workhouse, at the expense of the town. *ch.* 122, *s.* 18.

G.—Proceedings in order to effect removal of persons chargeable, or likely to become so, to the places of their lawful settlement.

(a) By written notification to Overseers of other towns.

§ 1. Overseers of the poor may in all cases, if they judge it expedient, previous to any application to any Justice of the Peace, or Court of Common Pleas, send a written notification, stating the facts relating to any person actually become chargeable to their town, to one or more of the Overseers of the place where his settlement is supposed to be, and requesting them to remove him, which they shall have power to do by a written order directed to any particular person by name, who is hereby authorized and required to obey the same. *ch.* 122, *s.* 17.

2. If the written notice or answer thereto provided for in the eleventh and seventeenth sections of the Act to which this is additional, shall be sent by mail, and shall arrive at the Post-Office in the town where the overseers of the poor of the town, to whom such notice or answer may be directed, shall reside, it shall be taken and deemed equivalent to an actual delivery of such notice or answer to such overseers. *ch.* 671.

3. If such removal is not effected, nor objected to by them, in writing, after such notice, to be delivered in writing, within two months after such notice to the Overseers of the town requesting such removal, or to some one of them; then such Overseers may remove such person by land or water as is most convenient, by a written order directed to, and to be served by any persons who shall be particularly mentioned in such order, to said place of his supposed settlement, the Overseers whereof shall be obliged to receive and provide for him; and their town shall be liable for the expenses of his support and removal; to be recovered by action as aforesaid, by the town incurring the same; and shall be barred from contesting the question of settlement with the plaintiffs in such an action.* *ib.*

* *Estoppel* is when one is concluded and forbidden in law to speak against his own act or deed, yea, though it be to say the truth. *Terme de la ley.*

3. If any person lawfully removed agreeably to this Act, to the place of his lawful settlement within this State, shall voluntarily return to the town from which he was removed, without their consent, he shall be deemed a vagabond; and upon conviction thereof, before any Justice of the Peace in the same county, may be sent to the house of correction. *ch. 122, s. 17.*

Estoppels are not favored in law, but are to be confined within strict rules because the truth may be excluded; and no party ought to be precluded from making a defence according to the truth of his own case, unless by positive and unequivocal principles of law. *See 4 Mass. Rep. 181, 274.*

There are three methods by which a pauper's settlement may be determined; and a determination in either way will conclude the towns which are parties to it;

In other words, it will operate as an estoppel, as the town against whom the determination is, will be forbidden to deny the settlement of the pauper in such town, whether he be *in fact* thus settled or not.

One method of estoppel is by judgment in an action by one town against another town for the maintenance or removal of a pauper, alleged to belong to the latter town.

Another method is where notice has been given (pursuant to the above provisions of the Statute) and, no objection being made within two months, the town giving the notice, have *actually removed* the pauper to the town, to which notice was regularly given.

The third method is when the overseers of any town, having been at expense in supporting a pauper, shall send a written notification to the Overseers of the town where his settlement is supposed to be, stating the facts relating to such pauper, and requesting his removal, which is not objected to within two months. And in such cases, legal notice not duly objected to is a bar to the question of settlement, although the pauper may in fact have no settlement in the State. *3 Mass. Rep. 107.*

Yet if the pauper be not removed, and the town where his settlement is supposed to be, voluntarily and without an action pay the expenses incurred in his support, and an action be afterwards brought by the town giving the notice, to recover subsequent expenses by them incurred in support of the pauper, the defendant town will not be estopped in such action to contest his settlement; for a compromise has not the effect to bar a future contest. *See Bigelow's Dig. 482, 483, and 4 Mass. Rep. 180, 272, xii. 454.*

If the objection to a notice to remove a pauper be signed by one of the Overseers in behalf of all, it is sufficient. *ib.*

A notification is sufficient, if it be signed by the chairman of the Selectmen in that capacity;—and it will be presumed that the town did not appoint any overseers of the poor unless the contrary appears. *3 Greenl. R. 197.*

In the computation of the two months, the day of giving the notice is to be excluded. *4 Greenl. R. 298.*

This provision does not apply to cases where the settlement can be shown to be in the town giving the notice. *5 Greenl. R. 31.*

(b) By complaint before a Justice of the Peace.

§ 1. All persons actually chargeable, or who, through age or infirmity, idleness or dissoluteness, are likely to become chargeable to the places wherein they are found, but in which they have no lawful settlement, may be removed to the places of their lawful settlement, if they have any within the State. And in order to effect such removal, (and also to recover the expense incurred for the relief of such persons if said Overseers choose that mode, in preference to a civil action) said Overseers may apply, by complaint to any Justice of the Peace in their county, not an inhabitant of the town.* *ch. 122, s. 15.*

2. Upon which complaint such Justice shall make out an annex thereto a summons, directed to the Sheriff, or his deputy, of the county wherein the town to be summoned is, and such officer shall serve and return the same, his being an inhabitant of the town to be summoned notwithstanding, for the same fees as for other writs of summons. And such Justice shall summon the party to be removed and other witnesses, and may, if he see cause, compel the appearance of the former by warrant, to be examined; and shall hear his objections to such removal, and may, for good cause, continue the process once, not exceeding three months and after due examination and hearing, whether the town summoned appears or not, shall proceed to give judgment for or against the complainants, and make a record thereof *ib.*

3. No costs, shall be awarded for such town if defaulted but if the complaint be not entered, or be discontinued, or not prosecuted, the town complained of appearing, and praying therefor, shall recover costs. *ib.*

4. Upon judgment of removal, such Justice may issue his warrant of removal directed to, and to be executed by any Constable of the town from whence the person is to be removed, and to any particular person by name. *ib.*

5. The Overseers of the town complained of shall be obliged to receive and provide for such persons accordingly and said Justice may also award execution for damages and

* A pauper is not removable unless actually chargeable, or likely to become so, from one or other of the causes mentioned in the Statute. The form of complaint furnished by the Statute is general, and must be adapted to the circumstances of the case exhibited. 8 Mass. R. 279.

sts ; and may tax in costs a reasonable sum for the expense of removal ; and the execution may be issued to, and may be executed by a proper officer in the county where the writ is, against which it issues. *ch. 122, s. 15.*

6. *Provided always*, That either party, as also any person who shall be adjudged likely to become chargeable, and ordered to be removed, aggrieved at the judgment of such justice may appeal therefrom to the next Court of Common Pleas to be held in and for the same county ; and shall provide copies and enter and prosecute the same as other appeals are. And said Court shall hear and determine the same without a Jury, and may award like warrant for removal, and like execution for damages and costs *with the necessary iterations* ; or may on complaint, affirm the judgment of the Justice with additional damages and costs, where the appeal is not prosecuted, and carry such judgment into execution. *ib.*

(c) By complaint to Court of Common Pleas.

§ 1. Such complaint may be originally made by said overseers, if they see fit, to the Court of Common Pleas in their county, by filing the same with the Clerk of said Court and procuring a like summons from him, *with the necessary iterations*, and causing the same to be served in time and manner as aforesaid ; as also summons for the party, to be removed, and for witnesses ; and such Court, upon such complaint shall proceed to hear, determine, adjudge and grant warrant and execution in the same manner as in cases coming before them by appeal. *ch. 122, s. 16.*

2. And in all their adjudications in the premises, they shall state the facts, upon which their judgments are founded ; to the end that error therein, if any, may be corrected by writ of error, in the Supreme Judicial Court ; to which their party aggrieved shall be entitled, if purchased within a year, but not otherwise ; and upon which, if judgment be reversed such judgment shall be given as ought to have been given below ; and the plaintiffs in error shall be restored to what they lost by such erroneous judgment with costs ; but if the judgment be affirmed, the defendants shall recover costs. And said Supreme Judicial Court may send to said Court of Common Pleas, and require them to state (other facts, when they shall appear, by suggestion, or otherwise,) that some man

terial ones were omitted in the statement aforesaid ; or to explain such as do not appear to the Court to be clearly stated ; unless a new statement be agreed to by the parties. *ch. 122, s. 16.*

3. Depositions may be used before the Justice, as well as the Court of Common Pleas, on the trial of such complaints, when taken legally and for legal cause. *ib.*

4. When expenses for support of a pauper are prayed for in such complaint, the same complaint may be proceeded upon to judgment, so far as respects his settlement and such expenses ; the decease of the pauper pending the complaint notwithstanding. *ib.*

H.—Their authority in relation to imprisoned debtors, when chargeable ;

In what cases they may take possession of and sell property of deceased paupers.

§ 1. The Overseers of the poor of any town, in which there is a county jail, are hereby authorized and directed, at their discretion, by their order in writing, to set to work, under their own direction or the direction of any other suitable person, any debtor committed to prison upon meane process or execution, and actually chargeable to any town or district in this State for his support ; And the order of said Overseers shall remain in force, until they shall revoke the same, or such prisoner shall provide for himself : *Provided however*, That no prisoner shall be required to labor more than is necessary to pay the expense of his support. And no prisoner shall be chargeable to any town as a pauper, while such order of the Overseers respecting him shall remain in force, except for the deficiency of his earnings to pay the expense of his support. *ch. 122, s. 12.*

2. No person committed to jail on execution or meane process, who shall apply to the Overseers of the poor for relief, shall be permitted to have and use any spirituous liquors, without the consent of the said Overseers. *ch. 110, s. 9.*

3. If the keeper of any jail, or other person shall give, sell or deliver to any such prisoner, or to any other person for his use, any spirituous liquors without the consent in writing of the said Overseers or one of them, first had and ob-

ned, shall forfeit and pay for each offence a sum not less in five, nor more than ten dollars, to be recovered by complaint to any Justice of the Peace for the same county; one moiety thereof to him who shall prosecute for the same, the other moiety to the use of the poor of the town where the delinquent is situated. And it is hereby made the duty of the Sheriff, Jailor and Overseers of the poor to prosecute for all offences which may come to their knowledge against the provisions of this section. *ch. 110, s. 9.*

4. Upon the death of any pauper, who at the time of his decease shall be actually chargeable to any town within this State, the Overseers of the poor of such town may take into their possession all the personal property belonging to such pauper. And if no administration shall be taken upon the estate of such pauper within thirty days after his decease, said Overseers may sell so much of such property, as may be necessary to repay the expenses incurred for such pauper. And if any part of such property shall be withheld from said Overseers, they shall have the same remedy for the recovery of such property, or the value thereof, that an administrator of the estate of said pauper might have in like case. *ch. 110, s. 20.*

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- Their duty relative to intemperate paupers ;
 - Their power to discharge from houses of correction.
 - Their agency in the sale of real estate of spendthrifts, &c.
 - Proceedings relative to houses of ill fame.

§ 1. Where any poor person being in any town in this State, and standing in need of assistance for support, and who is notoriously subject to habits of intemperance, it shall be the duty of the Overseers of the poor in such town, to apply by complaint signed by a majority of said Overseers, to any Justice of the Peace in such county, who shall issue a warrant thereon against such person ; and after a hearing before such Justice, if he shall adjudge that such person is notoriously subject to habits of intemperance, he shall order him committed to the house of correction to be supported at the expense of the town, in which he has a settlement ; and if he be not an inhabitant within the State, at the expense of

the county, till discharged by the joint order of the Overseers of the town in which such house of correction is situated, and two Justices of the Peace, *unus quorum*. *ch.* 122, s. 18.

2. Whenever any person, committed pursuant to the provisions of the fifth section of the Act respecting houses of correction, and for suppressing and punishing of rogues, vagabonds, common beggars and other idle or disorderly persons, shall apply to the master of the said house for a discharge therefrom, the said master shall signify the same to the Overseers of the poor of the town in which such house of correction shall be, or to the Overseers of the poor of such town as the person so committed shall belong to, and the major part of either of the Overseers of the poor aforesaid, upon its being made to appear to them that the ends of such commitment have been answered, are hereby empowered to issue their order to the master of such house of correction to discharge the said person from his or her said confinement; the charges arising therefrom being first paid in manner as is therein provided. And the said master is hereby required to discharge him or her accordingly. *ch.* 111, s. 13.

3. Where the guardians of persons who shall spend or waste their estates by excessive drinking, gaming, idleness, or debauchery, shall apply to the Supreme Judicial Court, or Court of Common Pleas to obtain a license to sell real estate of their wards, it is *provided*, that no such license be granted, unless the person applying for the same shall produce to the Court a certificate, under the hands of the Overseers of the poor of the town, in which said idle, gaming person has gained a legal settlement, giving their consent and approbation of the sale of such a proportion of the real estate of such person as such Overseers shall be satisfied is necessary to discharge the *bona fide* debts of such idle person, excluding all debts contracted by gaming. *ch.* 52, s. 5.

4. On application to the Justices of the Supreme Judicial Court to grant license to sell and convey the whole or so much of the real estate of such persons, as shall be most for their interest and benefit, when by a partial sale thereof, the remainder would be greatly injured, it is *provided*, that no such license shall be granted unless the certificate of Overseers of the poor required to be produced, shall also contain their consent and approbation of such sale, and their opinion that by a partial sale of the real estate, the remainders thereof would be greatly injured. s. 6.

5. The Supreme Judicial Court, and the Court of Common Pleas are empowered to grant license to guardians of spendthrifts, &c. not living *within this State*, but owning real estate within the same, to sell and convey such real estate in the same way and manner and under such conditions, restrictions and limitations, as are provided by law, for the sale of real estate by guardians, within this State. *ch. 52, s. 8.*

6. Any person who shall be suspected of keeping a house of ill fame, resorted to for the purposes of prostitution or lewdness, may be apprehended by warrant from any Justice of the Peace in the county, upon complaint of the Overseers of the town wherein such house shall be; and upon conviction of such offence, before such Justice or before the Court of Common Pleas, on presentment of the Grand Jury, may be ordered to the house of correction, for a term not exceeding one month; and after such conviction, shall not be allowed to keep lodgers or boarders, in any town without the license of the Overseers of the poor thereof. *ch. 122, s. 10.*

K.—Penalty for bringing and leaving paupers in towns where they have no settlements.

Duty and liability of masters of vessels introducing into the State persons having no settlement therein.

§ 1. If any person shall bring and leave any poor and indigent person in any town in this State, wherein such pauper is not lawfully settled, knowing him to be poor and indigent; he shall forfeit and pay the sum of sixty dollars for every such offence; to be sued for and recovered by, and to the use of such town, by action of debt, in any Court proper to try the same. *ch. 122, s. 22.*

2. When any ship or vessel having any passengers on board, who have no settlement within this State, shall arrive at any port or harbor within the State, the master of such ship or vessel shall, before such passengers come on shore, leave a list of their names and places of residence with the Selectmen or Overseers of the poor of the town where such passengers shall arrive. *ch. 123.*

3. The master of such ship or vessel shall not land any such persons, without the permission of the Selectmen unless

he shall enter into bonds with sufficient sureties, to the satisfaction of said Selectmen, in a sum not exceeding five hundred dollars for each passenger to indemnify and save harmless such town as well as the State from all manner of charge and expense, which may arise from such passengers, for and during the term of three years. *ch. 123.*

4. If the master of any such ship or vessel shall land any such passengers, without entering their names and giving bonds as aforesaid, he shall forfeit and pay the sum of two hundred dollars for each passenger so landed, to be recovered by action of debt by any person who shall sue for the same, one moiety thereof to the use of the State, and the other moiety to the prosecutor. *ib.*

**L.—Towns authorized to build Houses of Correction.
Selectmen to appoint Overseers.
Their power and duty.**

§ 1. Every town in this State is authorized and empowered, to build and maintain, at their own expense, a house of correction, or, to appropriate any poor house which has been, or may be erected by any town, or number of towns, in part, or in whole, for such purpose, and any person or persons belonging to, or being found in any town, having such house of correction, who may be liable to be sent to the house of correction for the county,* may be sent to the house of correction for such town or towns, by any Justice of the Peace, of the town, in which such person or persons may be found, in the same way and manner, as such person or persons might by law, be sent to the house of correction for the county. *ch. 297, s. 2.*

2. The Selectmen of every town which has erected or may erect a house of correction, or shall have appropriated any

* The persons liable to be sent to the house of correction are "all rogues, vagabonds, and idle persons, going about in any town or place, begging; or persons using any subtle craft, juggling or unlawful games or plays, or feigning themselves to have knowledge of physiognomy, palmistry or pretending that they can tell destinies or fortunes, or discover where lost or stolen goods may be found: common pipers, fiddlers, runaways, common drunkards, common night walkers, pilferers, wanton and lascivious persons, in speech, conduct, or behaviour; common railers or brawlers, such as neglect their callings or employments, mispend what they earn, and do not provide for themselves and for the support of their families." *ch. 111, s. 5.*

or house for that purpose, shall annually appoint a board of Overseers of such house of correction to consist of three, or seven able and discreet persons, whose duty it shall be to appoint some suitable person for a master or keeper thereof, except when the poor house has been or shall be appropriated for that purpose; in which case the overseer of such poor house shall be master of such house of correction; and also to make, ordain and establish such rules and orders (not repugnant to the laws of this State) as from time to time they may deem necessary for ruling, governing and punishing such persons as may be there committed. *ch. 429, s. 1.*

2. Such Board of Overseers, or any two of them, may, in their discretion, commit to such house of correction, any idle, drunken, or other person as aforesaid; for a term not exceeding forty-eight hours at one time, if in their opinion it for the public good shall require it. *ch. 297, s. 4.*

3. It shall be the duty of any Sheriff, Deputy Sheriff, Constable, or any other person, to whom a writ may be issued by said Overseers, forthwith to apprehend and convey such person, to the house of correction, or poor house as aforesaid, and to deliver him to the keeper thereof; and for such service he shall be allowed such fees for travel and service, as are by law provided for the service of warrants. *ib.*

4. Every person who may be committed to the house of correction in any town, shall be supplied, by the keeper thereof, with a suitable quantity of bread and water, or such other nourishment for his or her support, as the board of Overseers shall order while so confined, and all expenses incurred for commitment and maintenance, shall be paid by the town in which such person may have a legal settlement; and the board of Overseers, shall, from time to time, examine in that behalf, and see, that the keeper faithfully discharge his duty; and the Overseers and keepers of all such houses of correction shall have such compensation for their services, as shall be voted annually by their respective towns.

5.

6. When any person shall be adjudged to be committed to the house of correction for any town, by a Justice of the peace of said town, the person so adjudged, shall have a right to appeal from the judgment of said Justice, to the next Court of Common Pleas, for such county, he recognizing with sufficient surety or sureties to the Overseers of such house of correction, to prosecute such appeal with effect.

6.

M.—Forms.

Notice to the Overseers of the poor of the supposed place of settlement of a pauper.

1. To the Overseers of the poor of the town of A.

Gentlemen—You are hereby notified that *Richard Roe* and *Katharine* his wife, and *Caleb, Thomas* and *Susan*, children of said *Richard* and *Katharine*, have all fallen into distress and stand in immediate need of relief in the town of B., which has been furnished by said town of B. on the account and at the proper charge of the town of A. where they have their legal settlement. You are requested to remove the above mentioned paupers without delay to the town of A. accordingly and to defray the expense of their support in said town of B.

C. D. } *Overseers of the*
E. F. } *poor in the town*
G. H. } *of B.*

Indenture to bind out poor children.

2. This indenture witnesseth, that C. C., J. P. and E. R. Overseers of the poor of the town of B. in the county of C. by virtue of the statute of this State, in such cases made and provided, have placed and by these presents do place and bind out as an apprentice a poor child named B. W. son of S. W. of said B. who has become chargeable to said town (or who is thought by said Overseers to be unable to maintain said B. W. as the case may be) unto P. R. of , in said State, to be instructed and employed in the art, trade or mystery of

The said B. W. to live with and serve the said P. R. as an apprentice from the day of the date hereof until said B. W. shall come to the age of twenty-one years, (if a female, say, till said B. W. shall come to the age of eighteen years.)

During all which time, he, the said B. W. his said master shall well and faithfully serve, and be just and true to him and keep his secrets and every where willingly obey his lawful commands ;

He shall do no damage to his said master, nor willingly suffer any to be done by others ; and if any to his knowledge be intended, he shall forthwith give notice thereof to his said master ; he shall not waste the goods of his said master nor lend them without his consent to any person or persons ;

not traffic or buy and sell with his own goods or the
 of others, during said term, without his master's leave ;
 all not play at cards, dice or any other unlawful games ;
 all not haunt or frequent play houses, taverns, or places
 uring ; he shall not commit any unlawful act ; he shall
 ontract matrimony ; he shall not absent himself from
 ervice of his master without his leave ; but in all things
 good and faithful apprentice shall demean and behave
 elf to his said master, and all his, during the whole of
 ime.

nd the said P. R. on his part doth hereby covenant,
 ise and agree to instruct and employ his said apprentice
 urtherwise cause him to be instructed and employed in the
 irt, trade or mystery of , after the best way
 nanner he can, and also to teach and instruct the said
 ntice, or cause him to be taught and instructed, to read,
 vrite, and cypher as far as the rule of three ; and shall
 ind and allow unto his said apprentice, meat, drink,
 ing, lodging and apparel and other necessities meet
 onvenient for such an apprentice during the term afore-
 and at the expiration of the said term shall give to his
 apprentice two suits of wearing apparel, one suitable
 e Lord's day and the other suitable for working days.
 witness whereof, the parties aforesaid have hereunto
 changeably set their hands and seals the
 of , A. D.

ed, sealed and delivered
 in presence of
 T. W.
 R. S.

C. C. (Seal.)
 J. P. (Seal.)
 E. R. (Seal.)
 P. R. (Seal.)

TE.—Should a female be one of the parties, the words
 of course be altered accordingly.

ie law does not expressly require female apprentices or
 nts to be taught to cypher ; if it is not intended by the
 eers that they should be thus taught, the words, *and*
as far as the rule of three, may be omitted.

ie overseers are authorized to provide " for such other
 ction, benefit or allowance, either within or at the end
 e term as to the Overseers may seem fit and reasona-

Should such further provision be deemed proper, it
 be added to the above form, after the word *days*, or in
 ther proper place. s. 1.

Indenture to bind out persons of age.

3. This indenture, made the day of between C. C., J. P. and E. R. Overseers of the town of B. in the County of C., on one part, and D. S. of in said county, (addition) of the other part, witnesseth :

That the said Overseers, by virtue of the statute in such cases made and provided, have bound out, and do hereby bind out to the said D. S. for the term of , (*the term not to exceed one whole year,*) from the date hereof, N. M. a married (*or, unmarried*) person, residing and lawfully settled in said town of B. (*or, residing in said town of B. but having no settlement in this State*) who is able of body but has no visible means of support, lives idly and exercises no ordinary or daily lawful trade or business to get his living by: during which term the said N. M. shall faithfully serve the said D. S. and obey all his lawful commands, not wasting any of his goods, nor doing any damage to him whatever. And the said D. S. on his part doth hereby covenant and engage to pay the said Overseers, for the service of the said N. M. for the term aforesaid, the sum of , to be applied (reasonable charges deducted) by said Overseers to the support of the said N. M. (*if he have a family, add or his family*) at the discretion of said Overseers.

In witness whereof, the parties aforesaid have hereunto interchangeably set their hands and seals the day and year above written.

Signed, sealed and delivered
in presence of
T. J.
J. A.

C. C. (Seal.)
J. P. (Seal.)
E. R. (Seal.)
D. S. (Seal.)

NOTE.—The Overseers may bind out upon such terms and conditions as they may think proper.

Application to a Justice of the Peace for removal of persons, &c.

4. To , a Justice of the Peace, in and for the county of . The town of in the said county, by the subscribers, Overseers of their poor, complain and show that now resident in said town is poor and become chargeable (or is likely to become chargeable) to said town;

and that his lawful settlement is in in the county of
 . Wherefore your complainants pray that, after a
 due course of proceedings had, the lawful settlement of
 said may be adjudged to be in said town of
 and that he may be removed thither by warrant accordingly.
 Your complainants further pray judgment for damages, for
 expenses incurred on account of said , an account where-
 of is annexed; and for such as may accrue until the time of
 judgment, and for costs. Dated at said the
 day of A. D. 184 A. B. &c. Overseers.

*Complaint to a Justice of the Peace for a warrant to remove
 paupers having no settlement in the State, &c.*

5. To J. P. Esq. one of the Justices of the Peace in and
 or the county of C.

Complain C. C. J. P. and E. R. Overseers of the poor in
 the town of B. that S. L. a poor person now residing in said
 town, but who has no lawful settlement in this State, but
 belongs to , has stood in need, and has been accord-
 ingly relieved and supported by them the said Overseers
 and that he the said S. L. still stands in need and will be
 further chargeable to said town: wherefore they pray that
 your Honor may issue a warrant to cause said pauper to be
 sent and conveyed to said , according to the statute in
 such cases made and provided, or otherwise to be dealt with
 according to law.

Dated, &c.

C. C. }
 J. P. } Overseers.
 E. R. }

*Complaint to a Justice of the Peace for warrant to commit
 intemperate paupers to the house of correction.*

6. To J. A. Esq. one of the Justices of the Peace in and
 or the county of C.

Complain C. C. J. P. and E. R. Overseers of the poor of
 the town of B. that M. N. a poor person now in said town
 standing in need of assistance for support, is a person no-
 toriously subject to habits of intemperance: wherefore they
 pray that your Honor may issue a warrant against the said
 M. N. to the end that such proceedings may be had in the
 premises as by law required.

Dated, &c.

C. C. }
 J. P. } Overseers.
 E. R. }

Complaint in order to procure the discharge of an apprentice or servant, &c.

7. To the Honorable Justices of the Court of Common Pleas for the county of C. begun and held at B. in said county, on the Tuesday of ,

Complain C. C. J. P. and E. R. Overseers of the poor the town of B. in the county of , that C. D. was legally bound out as apprentice (*or, servant*) to A. B. , in said county (addition) by the Overseers the poor of the said town of B.

And your complainants allege that the said A. B. has abused and ill-treated (*or, neglected, as the case may be*) the said C. D. having (here may be mentioned the particular circumstances of the case.)

Wherefore the complainants pray that your Honors would liberate and discharge the said C. D. from his said master with costs, agreeably to the statute in such cases made and provided.

Dated, &c.

C. C. }
J. P. } *Overseers.*
E. R. }

Master's complaint in order to procure the discharge of an apprentice or servant, &c.

8. To the Honorable Justices of the Court of Common Pleas for the county of C. begun and held at B. in said county on the Tuesday of ,

Complain A. B. of , &c. that C. D. who was legally bound out to him as an apprentice, (*or, servant*) by the Overseers of the poor of the town of B. has grossly misbehaved himself to him the said A. B. to wit, in this, that the said C. D. has (here insert the instances of misconduct) wherefore, he the said A. B. prays that your Honors would discharge the said C. D. from his apprenticeship (*or, service*) agreeably to the statute in such cases made and provided.
A. B.

Order for the discharge of a person from the house of correction.

9. C. ss.

To the Master of the house of correction in said county (*or, as the case may be*) to the keeper of the jail in

county, the same being made use of as a house of correction, there being no such house provided for that purpose,
Greeting.

You having signified to us that C. D. who stands committed in said house (or jail) for (here insert the cause for which he was committed) has applied to you for a discharge from said house (or jail): And it appearing to us that the ends of such commitment have been answered:

You are hereby ordered to discharge said C. D. from his said confinement, the charges arising therefrom being first paid in manner as by law provided.

Given under our hands this day of
A. D. C. C. }
 J. P. } *Overseers.*
 E. R. }

Complaint against a person suspected of keeping a house of ill fame.

10. To S. C. one of the Justices of the Peace for the County of C.

Complain C. C. J. P. and E. R. Overseers of the poor of the town of B. that E. R. of said B. is suspected of keeping a house of ill fame, resorted to for the purposes of prostitution and lewdness, contrary to the statute of this State, and against the peace and dignity of the same:

Wherefore your complainants pray that a warrant may be issued for the apprehending of the said E. R. that she may be examined, touching the premises, and be further dealt with in way and manner by law provided.

Dated, &c. C. C. }
 J. P. } *Overseers.*
 E. R. }

Mittimus to House of Correction.

11. To A. B. master or keeper of the house of correction, in the town of .

You are hereby required in the name of the State of Maine, to receive and keep C. D. of , in the house of correction for the town of for the term of hours unless sooner discharged by our order.

E. F. } *Overseers of the House of Cor-*
G. H. } *rection in the town of .*

P A R I S H E S .

**A.—Of the formation and incorporation of parishes;
Mode of becoming a member, and of dissolving
that relation;
Their capacity to hold and manage estate.**

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| <p>§ 1. How parishes may be constituted, incorporated, and organized.</p> <p>2. Mode of becoming members of a religious society.</p> | <p>3. Mode of withdrawing from the same.</p> <p>4. The powers of parishes to hold and manage estate.</p> <p>ib. Limitation of income.</p> <p>ib. Their power to make by-laws.</p> |
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**B.—Of parish meetings and choice of officers.
Power and duty of parish officers.**

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| <p>§ 1. Mode of calling parish meetings.</p> <p>2. Choice of Clerk, Assessors, Collectors, Treasurer, and other officers.</p> <p>ib. Oath of Clerk.</p> <p>ib. Power of Assessors.</p> | <p>3. Power of Moderator.</p> <p>4. Mode of calling special meetings.</p> <p>ib. Method of notifying meetings.</p> <p>5. Records to be open to inspection; Clerk's duty to make and attest copies of record.</p> |
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C.—Of their powers to raise money, and of the assessment and collection of taxes.

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| <p>§ 1. Purposes for which parishes or religious societies may raise money.</p> <p>ib. Of the assessment and collection thereof.</p> <p>2. In what cases taxes may be assessed wholly or in part on pews and seats.</p> <p>3. Treasurer's power and duty in the sale of pews and seats for non-payment of taxes.</p> <p>4. Taxes on pews or seats to be paid over to the teacher de-</p> | <p>signed by the person paying, unless, &c.</p> <p>5. Parishes may appoint Treasurers, Collectors, who may appoint deputies.</p> <p>ib. To require bonds.</p> <p>6. May make abatements.</p> <p>7. Duty of Assessors in such cases.</p> <p>8. Owners of meeting-houses may incorporate themselves for parochial purposes.</p> <p>9. Persons may become incorporate to build, &c.</p> |
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—Of the corporate powers of ministers, and of parish or church officers to take and to hold estate in succession.

Ministers of parishes, &c. may be grantees of property for pious or charitable uses.	4. The act is not to make void judgments of courts.
Their power to prosecute and defend actions.	ib. Alienation of lands without the consent of the church or vestry is invalid.
Alienation of estate, &c. to be valid during alienor's office.	5. Of alienation of lands by ministers, with consent of the church or vestry.
Ministers of protestant churches may take parsonage lands in succession.	6. Churches, not episcopal, may choose committees to call church officers to account.
Their power to sue and defend actions touching the same.	ib. Powers of such committees.
Deacons of protestant churches and church wardens may take and hold estate in succession.	7. Officers of churches having by their usages no settled ministers, may hold estate in succession.
Their power to sue and defend actions.	ib. They may prosecute and defend actions.
Who shall be deemed the corporation, in case ministers, elders or vestry are joined in the grant.	ib. They may alienate estate with consent of the church or society.
	8. Limitation of income.
	9. Repeal of former laws.

—Of the formation and incorporation of parishes ;
 Mode of becoming a member, and of dissolving that relation ;
 Their capacity to hold and manage estate.

§ 1. Any persons twenty-one years of age, or upwards, sious of incorporating themselves into a parish or religious siety, may apply to any Justice of the Peace in the county ere the majority of such applicants reside, who shall ue his warrant to one of such applicants, directing him to tify them to meet at some suitable place, in the manner this act provided, for the purpose of incorporating them- ves into a parish or religious society. And such persons assembled, may choose a clerk, and such other parish icers, as they may think proper : and thereupon shall be, d hereby are declared to be a body politic, to be known uch name and style, as they may see fit to adopt ; and ll have all the powers and privileges incident by law to shes and religious societies. *ch.* 135, s. 1.

2. Any person may become a member of any parish or religious society now existing or hereafter to be created, by being accepted by the society of which he wishes to become a member at a legal meeting of the same, and giving notice thereof in writing to the clerk of the society which he is about to leave ; which notice and the time of receiving the same, it shall be the duty of such clerk to record. But every person ceasing to be a member of any parish or religious ciety shall be liable to be taxed for all moneys raised by such parish or society before his ceasing to be a member thereof. *ch. 335, s. 8.*

3. *Provided*, That no person shall be compelled to join or be classed with any parish or religious society without his or her consent : and when any person shall choose to withdraw from any parish or religious society, and shall leave a written notice thereof with the Clerk of such society, he or she shall be no longer liable to pay any part of any future expenses which may be incurred by such society. *ib.*

4. Every parish or religious society shall have power to take by gift, grant or purchase any estate real or personal, until the clear annual income of such parish or society arising from such estate, shall amount to three thousand dollars ; and to give and grant or bargain and sell the same ; and shall have power to order and establish such regulations and by-laws for the management of their affairs as they may see fit : *Provided*, The same be not contrary to the laws of this State. *s. 2.*

B.—Of parish meetings and choice of officers ; Power and duty of parish officers.

§ 1. The inhabitants of each parish or religious society may meet annually and at such other times as they may deem proper, in the town where the religious meetings of such parish or society are usually held, at such time and place as they shall be notified to attend by the Assessors or standing committee of such parish or society, or by such other person as may have the warrant of such assessors or committee therefor, such meetings to be notified seven days at least before the holding of the same, by written advertisements posted up at the principal outer door of the meeting

ouse or place of worship of such parish or society, or in such other mode as any parish or society may agree upon at any legal meeting of the same. *ch.* 135, *s.* 3.

2. The inhabitants being so assembled may, by written allot or otherwise, elect a Clerk, who shall be sworn or affirmed to the faithful discharge of his office, two or more assessors, a Collector, Treasurer and a standing committee, and such other officers as may be deemed proper for the convenient management of their concerns. And the Assessors of such parish or society shall have power to manage the rudential affairs thereof, when no other persons are appointed for that purpose. *ib.*

3. The Moderator of any meeting of any parish or religious society shall have power to regulate and manage the business of such meeting, to preserve due order and decorum therein, to remove therefrom every person guilty of regular and disorderly conduct, and to administer the oath of office to the Clerk. And when any vote declared by the Moderator shall immediately be questioned by any person present, the Moderator shall make the same certain in such manner as a majority of the members present may desire. *s.* 4.

4. When any five members of any parish or religious society shall signify in writing their desire to have any article inserted in the warrant or notification for calling the next meeting thereof, it shall be the duty of the Assessors to insert the same accordingly. And if such Assessors unreasonably refuse to call a meeting, or any parish or religious society be destitute of Assessors, or other officers empowered to notify a meeting of the same, any Justice of the Peace within the county, upon application in writing of five members of such parish or society, may issue his warrant to any suitable person therein, who may notify a meeting thereof accordingly; and where any parish or religious society shall not establish the method of calling meetings of the same, such meetings may be notified and called in the manner herein before provided for the calling of annual meetings. *s.* 5.

5. The records of every parish or religious society shall be free to the inspection of every member thereof, and of the Clerk of any other parish or religious society. And it shall be the duty of each Clerk to make and attest copies of record upon request and reasonable compensation therefor. *s.* 9.

C.—Of their powers to raise money, and of the assessment and collection of taxes.

§ 1. Every parish and religious society may at any legal meeting thereof grant and vote such moneys as they may judge necessary for the support of the public ministry of religion, for the building, repairing, enlarging or removing of houses of public worship and for all other necessary parish charges;* and may assess the same on the polls and estates of the several members thereof, and cause the same to be collected, conforming to the laws providing for the assessment and collection of State taxes. *ch. 135, s. 6.*

2. Where any house of public worship belongs to the members of a parish or religious society, it shall be lawful for such parish or society, if they see cause, to assess any moneys voted aforesaid either wholly or in part upon the pews and seats of all individual proprietors therein : *Provided*, That such individual proprietors of pews and seats, whether members of such society or not, may be present and vote in granting all sums to be assessed on such seats and pews in manner aforesaid. *ib.*

3. If the taxes or any of them so assessed on said pews and seats shall remain unpaid for the space of six months after the assessment thereof, the Treasurer of such parish or religious society shall sell such pews and seats at public vendue to the highest bidder ; first posting up a notification of such intended sale at the principal outer door of such house of public worship, at least three weeks before the time of sale, therein setting forth the numbers of the pews or seats if any, and the amount of taxes due thereon ; and shall make, execute and deliver to the purchaser sufficient deeds of conveyance of the same, and the moneys arising from such sale, over and above the taxes and incidental reasonable charges, said Treasurer shall pay over to the former owners of the pews and seats so sold respectively, or their assigns, on demand. *ib.*

4. All moneys paid by any person for the support of public worship, or of public teachers of religion, by a tax on any pew or seat, shall if such person require it, be paid over to

* Parishes have no powers to grant moneys except those given by statute. The words, "all other necessary parish charges," relate only to the charges arising from and necessarily connected with the objects specified in the statute. A grant and tax for other purposes would be illegal and the assessors thereof would be held liable as trespassers. *See 1 Mass. Rep. 190.*

uch teacher of his own religious sect as he may designate, e leaving a written notice of such designation with the clerk of such society on or before their annual meeting ; unless such owner shall use such seat or pew by attending ublic worship himself, his family or other person occupying e same under him ; and it shall be sufficient that such acher be ordained and qualified agreeably to the usages of is particular sect or communion. *ch.* 135, *s.* 7.

5. Whenever any parish or religious society at any legal meeting thereof shall grant and vote, for any legal purpose, ny sum of money and assess the same upon the polls and estates of the several members thereof it shall be lawful for the members thereof to appoint their Treasurer a Collector of taxes, with the same powers as is provided for the Treasurer f a town pursuant to the provisions of the Act of 1821, *ch.* 16,* with similar powers to appoint any number of deputies, or assistants, whom he shall require to give bonds for e faithful discharge of their duties, in such sums and with uch sureties, as the assessors of such religious society shall irect. *ch.* 296, *s.* 1.

6. The members of said parish or religious society, may, y vote, at any such meeting, authorize similar abatements upon said taxes to be paid in to such Collector and Treasurer or his deputy, within thirty, sixty, or one hundred and wenty days, after the delivery of said tax bills, as towns are uthorized to make by virtue of the 57th section of the Act entioned in the foregoing section, and such taxes as are ot paid in, within either of the aforesaid periods shall be ollected by said Treasurer and Collector, his deputy or eputies in the same manner as town taxes under similar ircumstances. *s.* 2.

7. The Assessors of any parish or religious society which shall regulate the collection of their taxes agreeably to the provisions of this Act, shall assess their taxes in due form, and deposit the same in the hands of said Treasurer and Collector for collection, together with a warrant for that purpose, after he shall have been duly qualified, together with his deputy or deputies ; and at or before the same shall post up a notification or notifications thereof, together with a copy of the second section of this Act, at the principal outer door of the meeting house or place of worship of such parish or religious society, or at such other place or places, as may, at any legal meeting be designated by said parish or re-

* See page 67.

ligious society, for posting up notifications for calling their meetings for prudential affairs. *ch.* 296, *s.* 3.

8. Any owners of meeting-houses, not a parish, shall have power to incorporate themselves for the purpose of repairing, enlarging, removing and managing the meeting-houses of which they may be owners, in the same manner and with the same effect, as parishes may by law, incorporate themselves; and may choose like officers, raise and assess taxes, and as a body politic, for the sole purposes aforesaid, do all things which a religious society may do in the exercise of the authority in them by law vested. *ch.* 330.

9. Any number of individuals, shall have power to incorporate themselves, for the purpose of erecting a meeting house, in the same manner and with the same effect, as in the preceding Act. *ch.* 377.

D.—Of the corporate powers of ministers, and of parish or church officers to take and hold estate in succession.*

§ 1. The minister or ministers of every parish or religious society of every denomination are, and shall be deemed capable of taking in succession any estate granted to the minister and his successors, or for the use of the ministry, or of the poor of the church, and of prosecuting and defending all actions, petitions and processes touching the same, and no alienation by any minister of any estate granted to the minister and his successors or for the use of the ministry shall be valid any longer than during such alienor's continuing minister. *ch.* 135, *s.* 10.

2. The minister or ministers of the several Protestant churches, of whatever denomination, are and shall be deemed capable of taking in succession any parsonage land or lands, granted to the minister and his successors, or to the use of the ministers; and of suing and defending all actions touching the same. *ch.* 42, *s.* 1.

3. The deacons of all the several Protestant churches, not being Episcopal churches, and the church wardens of the several Episcopal churches, are, and shall be deemed so far bodies corporate as to take in succession all grants and

* For various duties and liabilities of parish assessors and collectors, see pages 7—74.

onations whether, real or personal, made either to their several churches, the poor of their churches, or to them and their successors, and to sue and defend in all actions touching the same; and whenever the ministers, elders or vestry, shall in such original grants or donations have been joined with such deacons or church wardens as donees, or grantees in succession, in such cases, such officers and their successors together with the deacons or church wardens, shall be deemed the corporation for such purposes as aforesaid. *ch. 42, s. 1.*

4. Nothing in this Act shall be construed to make void any final judgment of any Court of Common law or Probate; and no alienation of any lands, belonging to churches hereafter made by the deacons, without the consent of the church, or a committee of the church for that purpose appointed, or by church wardens, without the consent of the vestry shall be sufficient to pass the same. *ib.*

5. No alienation hereafter made by ministers, of lands by them held in succession, shall be valid any longer than during such alienors' continuing ministers; unless such ministers be ministers of particular towns, districts or precincts, and make such alienation with their consent respectively; or unless such ministers so aliening be ministers of Episcopal churches, and the same be done with consent of the vestry. *ib.*

6. The several churches in this State, not being Episcopal churches, are hereby empowered to choose a committee to call the deacons or other church officers to an account; and if need be, commence and prosecute any suits touching the same, and also to advise and assist such deacons in the administration of the affairs aforesaid. *ib.**

7. The deacons, elders, trustees, stewards, or other presiding officers of every church or religious society having by its usages no settled minister, shall be deemed capable of taking in succession any estate granted to them to the use of such church or of the poor thereof: and of prosecuting

* By sec. 2. of the stat. ch. 42, It is enacted that the income of the grants made or to be made to any one such body politic for pious and charitable uses, shall not exceed the sum of six hundred dollars per annum.

Compare this with the provision of the subsequent act, ch. 135, s. 10. (see section 8.)

In the construction of the Statute 1789, ch. 51, s. 1, (which is similar to the 1st sect. of the above statute, ch. 42,) it was held that deacons of a church were not by the statute made a corporation, for the purpose of receiving and managing a fund established for the support of a minister. *11 Mass. Rep. 257.*

and defending all actions, petitions and processes touching the same. But no alienation of such estate by such deacons, elders, trustees, stewards, or presiding officers shall be valid any longer than during the alienor's continuing in office : *Provided however*, That such deacons, elders, trustees, stewards, or presiding officers may, with the assent of the church or society, alienate in fee any estate acquired by them or by such church or society by purchase. *ch.* 135, *s.* 10.

8. No minister, deacons, elders, trustees, stewards or other presiding officers shall be deemed capable of taking any estate granted as aforesaid, so long as the clear annual income of any prior grants to such minister, deacons, elders, trustees, stewards, or presiding officers or their predecessors, or to the church, shall be and remain equal to the sum of three thousand dollars. *ib.*

9. All laws now in force in this State inconsistent with the provisions of this Act are hereby repealed. *s.* 11.

PLANTATIONS*.

Organization of Plantations — their power and duty to choose Officers and to raise moneys.

Subject to the same liabilities as towns.

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| <ul style="list-style-type: none">§1. Plantations, how organized.2. May choose assessors, constables and collectors.3. Oath and compensation of Assessors.4. Assessors may call annual meetings.5. Penalty for neglect of duty. | <ul style="list-style-type: none">6. Duty of Plantation moderators.7. Plantations made bodies corporate and subject to the same liabilities as towns.8. May raise money to support poor. |
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§ 1. All plantations, which shall from time to time be ordered by the legislature to pay any part or portion of the public taxes, shall be, and they hereby are fully vested with all the powers that towns in this State by law are, so far as relates to the choice of Assessors of taxes, and to the choice of Constables and Collectors of taxes and requiring bonds of the same. *ch. 116, s. 6, 24.*

2. When any part or proportion of any State or County tax shall be laid on any plantation not organized, the Treasurer of the State, or of such county respectively, shall issue his precept to some Justice of the Peace dwelling near to such plantation, requiring him forthwith to grant his warrant, directed to some principal inhabitant of such plantation, requiring him to notify and warn the inhabitants of such plantation qualified to vote for Governor, to meet at such time and place within the same, as in such warrant shall be specified, in order to choose needful officers for the purposes hereafter mentioned; and such principal inhabitant is hereby obliged to observe and obey the warrant that he shall receive from such Justice, on the penalty of forfeiting and paying the whole sum that shall be ordered to be levied on such plantation, to be recovered by action of debt by said respective Treasurers, in any Court of record within this

*The powers and duties of plantation officers are generally the same with those of towns, and are comprised under the same heads. See Assessors, Clerks, Collectors, Selectmen, Highways, and other titles.

State proper to try the same. And such principal inhabitant shall make return of the Justice's warrant to the Justice who issued it, with his doings therein, and the doings of the plantation in consequence of it, within the time limited in such warrant ; and the Justice shall thereupon certify such doings to the State or county Treasurer respectively : and such of said inhabitants as shall then assemble, shall have power, and they are hereby required to choose a Moderator and Clerk, as also Assessors and Collectors for assessing and collecting such plantation's proportion of such State and county tax, as shall be ordered to be assessed, to be duly paid when collected by such collectors, to the State or County Treasurers respectively. *ch. 116, s. 8.*

3. And such Clerk, Assessors and Collectors shall be under oath, to be administered by the Moderator of such meeting, or a Justice of the Peace for the faithful discharge of their respective trusts, and shall have the same allowance from such plantations as such officers are entitled to by law in towns. *s. 8.*

4. The Assessors, who shall from time to time be chosen or appointed for such plantation, shall have power and they are required to issue their warrants for calling meetings of the inhabitants thereof in the month of March or April annually, for choosing such officers as aforesaid, who shall be sworn by the Moderator or some Justice of the Peace as aforesaid. *s. 10.*

5. If any of the plantations aforesaid, shall neglect to choose Assessors as aforesaid, or if the Assessors chosen by any such plantation, and accepting such trust shall be remiss or neglect their duty ; in every such case, such plantation shall be subject to the same penalties, and be proceeded with in the same manner as by this Act is provided, in the case of deficient towns ; and such deficient Assessors shall be and hereby are made liable to the same penalties, to be recovered by the same process as by this Act is provided in the case of deficient Assessors chosen by towns. *s. 7.*

6. Every Moderator of a plantation meeting shall be held and obliged to notify the plantation officers to appear, either before himself or some Justice of the Peace, within seven days from the time of their being chosen, and take the necessary oaths ; and in case of neglect shall forfeit and pay the sum of ten dollars to the use of the plantation, to be recovered by any inhabitant thereof before any Justice of the Peace within the same county. *s. 11.*

7. Each plantation in this State from which any St

ax or taxes now remain due and unassessed, or from which any State or county tax shall hereafter be required as aforesaid, hereby is made a body politic and corporate for the purposes aforesaid, and liable to such action or actions, with full power to defend the same in the same manner as towns by law may defend suits against them. *ch. 116, s. 64.*

8. The plantations in this State, are hereby empowered to raise money for the relief and support of the poor therein; to be applied by the Assessors thereof; and all moneys accruing for licenses granted to retailers, innholders, and victuallers in plantations, shall be paid into the respective treasuries thereof for this purpose. *ch. 122, s. 23.*

POUND KEEPERS.

A.—Choice and oath of Pound Keepers.

Pound Keeper to make a record of his doings.

B.—Proceedings when beasts are impounded.

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| <p>§ 1. Pound Keeper to restrain beasts impounded, &c.
2. Impounder to send or deliver him a certificate.
3. Pound Keeper not subject to action till damages, &c. are paid.
4. To issue his warrant in certain cases — and administer oath to appraisers.</p> | <p>5. To advertise beasts commit as estrays and cause them be cried.
6. To proceed to libel the same not claimed within two days.
7. To retain enough to indemnify himself and pay over balance to County Treasurer.
8. To allow party impound reasonable sum for his trouble.</p> |
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C.—Fees.

D.—Forms.

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| <p>§ 1. Warrant to Freeholders to appraise damages.
2. Return of appraisers.</p> | <p>3. Libel.
4. Execution.</p> |
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A.—Choice and oath of Pound Keepers.

Pound Keeper to make a record of his doings.

§ 1. There shall be annually chosen in every town a suitable person to keep each pound therein, who shall be sworn to the faithful discharge of his trust. *ch. 659, s. 4.*

2. He shall have and keep a book, wherein he shall enter at length, the certificates he shall receive from the person committing beasts to the pound, or finding stray beasts; shall record a single copy of all advertisements by him posted and published, and shall note therein the time when a beast was impounded, and the time when and the person by whom taken away; which book of records shall have the same validity in law as town records; and shall be delivered over by him to his successor. *ib.*

B.—Proceedings when beasts are impounded.

1. It shall be the duty of the pound keeper to restrain the beasts impounded in the town pound, or such other place after the first day as shall be more for the comfort of the beast or more convenient for its safety or for giving it food and drink, which shall be furnished by him at the expense of the impounder. *ch. 659, s. 4.*

2. Before any pound keeper shall be required to receive any beast into pound, the impounder shall send or deliver to the pound keeper a certificate of the following purport :

To the Pound Keeper of

The undersigned A. B. of B. herewith commits to pound [a horse, or cow, as the case may be, with a short description of the beast] taken up [in the highway, or the inclosure of said A. B. in B, as the case may be] and the said A. B. demands dollars and cents for damages or forfeiture, [as the case may be] and the unpaid charges for impounding the same. Witness my hand. A. B.

B, [date] 184 . . s. 5.

3. No action shall be brought against the pound keeper for restraining or detaining such beast or beasts, till the forfeiture, or the damages, charges of impounding and keeping the same, and all lawful costs and fees are paid to him. *ib.*

4. But if the person, whose beast is impounded, *damage feasant*, shall think the damages demanded are unreasonable, or if no claimant appear before the beast be libelled, the pound keeper, in either case, shall issue a warrant. Such warrant is to be granted at any time within ten days after the day of impounding and not afterwards ; and the oath to appraisers may be administered by the pound keeper or any Justice of the Peace, and must be certified on the same warrant. *ib.*

5. In all cases, whether the beasts be impounded, or committed to the pound keeper as estrays, be delivered to him, he shall forthwith advertise the same, stating the name of the impounder or finder, and the time and cause of committing the same to his custody — describing the beast, and requesting the owner to pay what is legally and justly demandable, and take the same away ; which advertisement shall be kept posted at or in the pound keeper's dwelling-house, and also be posted in two other public places in the same town, and also cried on three several days, if there be

a town crier ; and in case the beast shall exceed the value of ten dollars, he shall also cause the same to be published in a newspaper, (if any) printed in the same county. *ch. 659, s. 7.*

6. If the owner thereof shall not, within twenty days next after the posting or publishing such notice, appear and claim such beast aforesaid, and also pay what is by this act lawfully demandable, including charges, fees and costs, then shall the pound keeper, within the succeeding twenty days and not afterwards, proceed to libel the same in the name of the impounder or finder, in manner directed by "An Act prescribing the mode of recovering forfeitures of personal property, *liable thereto by law*;" in which process, the pound keeper may be a witness. *ib.*

7. The pound keeper shall retain sufficient to remunerate himself, his lawful charges and fees ; pay to others interested, their lawful dues respectively ; and deliver over the balance to the County Treasurer of the same county, within thirty days ; which balance the latter shall pay over, at any time within *six years*, to such one on his written request as shall satisfactorily make out his right thereto, as having been the true owner of the property before it was sold ; but if the County Treasurer shall refuse to pay the same to the claimant, the claimant may appeal to the next Court of County Commissioners, whose decision shall be conclusive and final in the case. *ib.*

8. The party impounding such beast, or delivering the same to the pound keeper, shall have a reasonable sum for his trouble, to be determined by the pound keeper ; not however, in any case, to exceed one half of the respective forfeitures in the second section of this act mentioned *s. 12.*

C.—Fees.

The fees which the said pound keeper shall receive shall be *twenty-five* cents for turning the key upon any beast or beasts impounded, at one and the same time ; *twelve cents and a half*, for recording every certificate and advertisement and the same for each advertisement posted or published and for his necessary travel, his fees shall be the same as witness. *ch. 659, s. 12.*

D.—Forms.

Form of Warrant.

§ 1. P. ss. To E. F. and G. H., two disinterested freeholders of said County, Greeting.

You are hereby appointed to view and estimate, upon oath, according to your best judgment, the damages done to A. B. by the [horse, oxen, as the case may be] owned or claimed by C. D. or by owner unknown, and make due return to me within twenty-four hours, with your doings therein; first giving the said A. B. reasonable notice of the time when you will view the place where the damages were done. — Given under my hand this day of
A. D. 18 .

O. P. Pound Keeper.

Return of Appraisers.

2. Pursuant to this warrant, we the undersigned, being first sworn to the faithful performance of the trust to which we have been appointed, and having given said A. B. reasonable notice as required, do hereby certify, that we have viewed and do estimate the said damages, at dollars
and cents and no more.

E. F. } Appraisers.
G. H. }

B. [date] 184 .

Form of Libel.

3. P. ss. To the Hon. Court of Common Pleas, next to be holden at within and for the County of on the day of in the year of our Lord, [or, as the case may be,] To Esquire, one of the Justices of the Peace within and for the County of .

The libel and complaint of A.—B.— of in the County of by O—P—, a pound keeper in said County humbly shows, that he, the said A—B—at on impounded or found [as the case may be,] the following beasts, [as the fact may be] to wit, [here describe them] doing damage in his inclosure, going at large, or found, [here describe the place] and that the same have been advertised as the law directs; and no person has appeared and made claim thereto, and paid the demands for which the

same is holden and detained ; wherefore your libellant prays the Court to decree a sale thereof, as the law in such cases provides.

B. [date] A—B—. By O—P,—Pound Keeper.

Form of Execution.

4. STATE OF MAINE.

P. ss. To the Sheriff of our County of or his deputy, or any Constable of the several towns in the same County.

Greeting.

[Seal] Whereas, A.—B— of within the County of through his agent, O—P—, pound keeper, by the consideration of our Justice Court, holden at on by Esquire, a Justice of the Peace for said County, or [as the case may be] of our Justices of our Court of Common Pleas, holden at on within our County of obtained a decree for the sale of the following [here insert a description of the property as in the libel] with costs taxed at as to us appears of record, whereof execution remains to be done : We command you, therefore, to make sale of the same in manner prescribed by law for the sale of goods and chattels in satisfaction of executions ; and after deducting your lawful fees, you will pay over the residue to the said pound keeper and take his receipt thereon for the same : Hereof fail not, and make due return, with your doings therein, within thirty days.

Witness, [the close to be like that of other executions.]

SCHOOLS.

A.—Obligation of towns and plantations to raise money for the support of schools, and liability for failure. Distribution of moneys.

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| § 1. Amount of money to be raised. | 5. Forfeitures for failure or deficiency. |
| 2. Third part may be applied to a mistress' school. | 6. Assessors to assign proportions to districts. |
| 3. May allow a greater portion. | ib. Rule of assignment. |
| ib. Committee to direct what sum. | ib. Assessors to certify to Selectmen thereof. |
| 4. May determine what scholars shall attend. | ib. Distribution of surplus moneys. |

B.—Schoolmasters, and schoolmistresses, their qualifications, duties and liabilities.

C.—Choice, power and duty of school committee, and district agents. Provision for supply of books

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| § 1. Choice and number of school committee. | 7. When districts may choose Agents. |
| 2. Their duty to examine instructors. | 8. Agents to be sworn. |
| 3. Their superintendence of schools and scholars. | 9. May expend 10 per cent. for repairs. |
| 4. Their power to dismiss instructors. | 10. To notify committee when school begins. |
| 5. Directory power as to school books. | 11. Duty of committee to visit schools. |
| 6. Their power to expel and restore scholars. | 12. On neglect of parents, &c. to furnish books, Selectmen or Assessors to furnish them at their expense. |
| 6. Choice, power and duty of district agents. | |

D.—Authority of towns and plantations in relation to school districts; corporate power and capacity of school districts; district meetings and choice of officers; for what purpose district may raise money.

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| <p>§ 1. Towns, &c. may fix the number and limits of districts.</p> <p>2. Districts may sue, and be sued, and may hold estate.</p> <p>3. Mode of calling district meetings.</p> <p>4. Who are voters, and the manner of notifying them.</p> | <p>5. Districts may choose tor and clerk.</p> <p>ib. Clerk's duty ; how q</p> <p>ib. Choice and duty o committee.</p> <p>6. Purposes for which may raise money.</p> |
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E.—Proceedings when school districts refuse money, and in case of disagreement in l of school houses.

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| <p>§ 1. When a district refuses to raise money, town or plantation may assess it on the district.</p> <p>2. In case of disagreement as to location of school house, Selectmen or Assessors may decide.</p> <p>3. School districts may be formed from parts of adjoining towns, &c.</p> | <p>4. Such district body c</p> <p>ib. May be altered, &c.</p> <p>5. District to receive it tion of school mone</p> <p>6. Eldest town to have er to call meetings,</p> <p>ib. District to choose its</p> <p>7. Islands not included districts.</p> |
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F.—Appropriation of penalties ; forfeiture of appropriation by neglect.

G.—Returns to be made of district schools, and raised ; and the distribution of the bank the support of schools.

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| <p>§ 1. Selectmen to make triennial returns to Secretary of State of the districts, scholars and money.</p> | <p>2. Selectmen to distrib districts.</p> <p>3. Not to exonerate to raising money.</p> |
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A.—Obligation of towns and plantations to rai ey for the support of schools and liability ure. Distribution of moneys.

- § 1. Every town and plantation shall annually 1 expend for the maintenance and support of schools to be taught by schoolmasters duly qualified, a sum ey, including the income of any incorporated scho not less than forty cents for each inhabitant, the v be computed according to the next preceding cen

State, by which the representation thereof has been apportioned. *ch.* 651, *s.* 1.

2. *Provided*, That a part, not exceeding one third of the money allotted to any district, may, if the district so determine, be applied to the support of a school taught by a mistress, or when the sum so allotted to a district in any year shall not exceed thirty-five dollars, the whole may be expended in the same manner. *ib.*

3. Whenever the inhabitants of any school district, may be desirous of applying to the support of a school, taught by a mistress, a greater portion of the money assigned to them, than is allowed in the first section of the above Act, and shall so determine, at any legal district meeting held for that purpose, and make known the same to the superintending school committee, said committee shall have power to direct what sum shall be applied for the purpose aforesaid. *ib.*

4. Whenever the inhabitants of a school district shall determine to apply part of their school money to the support of a school taught by a mistress, and part to that of a school taught by a master, they may determine in district meeting, or empower the school committee, or a special committee by them chosen, to determine what description of scholars shall attend each school, and assign them to the one or the other, in such manner as shall promote their best proficiency and greatest benefit. *ib.*

5. If any town or plantation shall fail to raise and expend annually for the support of schools the amount of money required by this Act they shall forfeit and pay a sum not less than twice, nor more than four times the amount of such failure or deficiency. *s.* 5.

6. It shall be the duty of the Assessors of each town and plantation to assign, to each school district, a proportion of the money raised in each year for the support of schools, according to the number of children therein, between the ages of four and twenty-one years: and the Assessors of towns shall certify such assignment to the Selectmen: *Provided*, That whenever any town or plantation shall raise a sum of money exceeding that required by this Act, such surplus may be distributed among the several school districts, in such manner as the town or plantation may determine. *ib.*

The number of children, between the ages of four and twenty-one years, in each school district (exclusive of those attending any college or Academy, not belonging to such dis-

trict,) on the first day of May annually, shall be the number by which Assessors shall apportion the money raised for the support of schools. *ch.* 651, *s.* 5.

B.—Schoolmasters, and schoolmistresses, their qualifications, duties and liabilities.

No person shall be employed as a schoolmaster, unless he shall be a citizen of the United States, and shall produce a certificate from the superintending school committee of the town or plantation where the school is to be kept, and also from some person of liberal education or literary pursuits and good moral character, residing within the State* that he is well qualified to instruct youth in reading, in writing the English language grammatically, and in arithmetic, and other branches of learning usually taught in public schools and also a certificate from the Selectmen of the town or Assessors of the plantation where he belongs, that, to the best of their knowledge, he is a person of sober life and conversation, and sustains a good moral character. And no person shall be employed as a schoolmistress, unless she shall produce a certificate from the superintending school committee of the town or plantation where the school is to be kept, that she is suitably qualified to teach the English language grammatically, and the rudiments of arithmetic, and produce satisfactory evidence of her good moral character. *s.* 4.

Any person who shall teach any school required by this Act, without producing prior to his commencing the same the certificates required by this Act, shall forfeit and pay a sum not exceeding his daily wages for each day he shall teach such school, and shall be barred from recovering of any town, plantation or person, any pay for teaching such school. *s.* 5.

* This certificate, may, when convenience so requires, be given by any such person residing in any county adjacent to that in which school is to be kept. *ch.* 311, *s.* 3.

C.—Choice, power, and duty of school committee and district agents. Provision for supply of books.

§ 1. There shall be chosen by ballot at the annual meeting, in each town and plantation, a superintending school committee, who shall be sworn to the faithful discharge of their duties, consisting of not less than three nor more than five persons, whose duty it shall be to examine schoolmasters, and mistresses, proposing to teach school therein. *ch. 651, s. 3.*

2. It shall be the duty of such committee to visit and inspect the schools in their respective towns and plantations, and inquire into the regulations and discipline thereof, and the proficiency of the scholars therein, and use their influence and best endeavors, that the youth in the several districts regularly attend the schools. *ib.*

3. The said committee shall have power to dismiss any schoolmaster or mistress who shall be found incapable, or unfit to teach any school, notwithstanding their having procured the requisite certificates; but the towns and plantations shall be bound to pay such instructors for the time they have been employed. *ib.*

4. The superintending committee shall have power to direct what school books shall be used in the respective schools. *ib.*

5. The superintending school committees are authorized, for misconduct to expel from any school, any obstinately disobedient and disorderly scholar, when after a proper investigation of his or her behavior, they shall judge that the peace and usefulness of the school will thereby be promoted; and shall also have power to restore such scholar on satisfactory evidence produced to them of repentance and amendment. *ib.*

6. If the town does not otherwise instruct, at the meeting for the choice of town officers, there shall be chosen an agent for each school district, whose duty it shall be, to hire the schoolmasters, or mistresses for their respective districts, and to provide the necessary fuel and utensils for the schools. *ib.*

7. Such towns in this State as shall think proper, may, by a vote of such towns at their annual meeting in the month of March or April, authorize the several school districts in their towns to choose the school agent or agents in district meet-

ing lawfully assembled, which choice shall be by ballot; and the agent so chosen shall continue in office one year or until another is chosen in his stead. *ch. 651, s. 3.*

8. The school agents of the several towns and plantations shall, before entering upon their said office, be sworn to the faithful discharge of the duties thereof. *ib.*

9. The agent of any school district is authorized to expend annually out of the money raised for the support and maintenance of schools therein, a sufficient sum to supply the school with necessary fuel, and a sum not exceeding ten per cent. of the money assigned as the share of said district, for incidental repairs of its schoolhouse, and necessary utensils for the same. *s. 14.*

10. It shall be the duty of the agent of every school district, to give notice to some one of the superintending school committee of the town or plantation, on or before the opening of every town or plantation school, of the time the school commences, and the time for which the instructor is engaged therein. *s. 3.*

11. It shall be the duty of some one or more of the school committee to visit each school at least twice during the term for which such school is kept, once within three weeks from the commencement of such school, and once within two weeks before the close thereof. *ib.*

12. If any parent, master or guardian, shall, after notice given him by the master or mistress of any school, refuse or neglect to furnish their several scholars with suitable books the Selectmen of the town, or Assessors of the plantation thereof, on being notified by such master or mistress, shall furnish the same at the expense of the town or plantation which expense shall be added to the next town or plantation tax of such parent, master or guardian. *ib.*

D.—Authority of towns and plantations in relation to school districts; corporate power and capacity of school districts; district meetings and choice of officers; for what purposes districts may raise money.

§ 1. The several towns and plantations in this State, hereby are authorized and empowered to determine the number

and define the limits of school districts within the same.*
ch. 651, s. 6.

2. Each and every school district in this State is hereby made a body corporate, with power to sue or to be sued, and to take and hold any estate, real or personal, for the purpose of supporting a school or schools therein, and to apply the same agreeably to the provisions of this Act, independently of the money raised by the town for that purpose. *ib.*

3. It shall be the duty of the Selectmen of any town, or Assessors of any plantation, upon application made to them in writing, by three or more freeholders residing within any school district, in such town or plantation, to issue their warrant, directed to one of the persons making such application, requiring him to warn the inhabitants of such district qualified to vote in town affairs, to meet at such time and place as shall in the same warrant be appointed.† *s. 11.*

4. Whenever an agent has been legally chosen in any district, it shall be his duty, upon the application of five or more legal voters in said district to said agent, requesting him to call a meeting of said district, to issue his notice calling such meeting, and insert therein the reasons and objects of said meeting; and also to post up said notification on the district schoolhouse, (if there should be any in said district) and one other public place within the limits of said district, seven days at least prior to said meeting. And in all districts where a public paper shall be printed, such notice shall also be inserted therein. *Provided*, That any school district may, at any legal meeting thereof, determine the manner in which notice of future meetings in such districts may be given. *s. 11.*

5. Such inhabitants so assembled, may choose a Moderator and also a Clerk who shall be sworn faithfully to dis-

* By *stat. 1789, ch. 19, s. 2*, Towns were authorized to "determine and define the limits of school districts." Though the words conveyed no express authority to make any subsequent alteration of the limits, or to form any new districts, it was held that towns had such authority. *4 Mass. Rep. 536*. An alteration of the limits of a school district, annuls all unfinished process under its former authority:—*thus* if the alteration be before the assessment of moneys voted, the assessors have no authority to assess;—if after the assessment and before collection, the collector cannot proceed to collect. *ib.*

† In trespass against assessors for illegal assessment of money, it was held that the return of the freeholder on a warrant from the selectmen, that all the inhabitants of a school district had been warned—*was* conclusive and not to be controled by parole evidence. *14 Mass. Rep. 320*. An indictment will lie against the freeholder for a *due return*, for he will be viewed quasi an officer. *ib.*

charge the duties of his office before a Justice of the Peace, or before the Moderator, and it shall be the duty of such Clerk to make a fair record of all the votes passed at any meeting of the district, and to certify the same when required;* and may also choose a committee to superintend the laying out and expending the money raised by such district agreeably to their vote, for the purposes aforesaid, to examine and allow such accounts as they may think proper, and to draw orders on the town or plantation treasury for the amount of the money raised. *ch. 651, s. 11.*

6. The inhabitants of any school district qualified to vote in town affairs, are empowered, at any district meeting, called in the manner hereinafter provided, to raise money for the purpose of erecting, repairing, purchasing and removing a schoolhouse, and of purchasing land upon which the same may stand, and utensils, and also for erecting or repairing such out buildings connected therewith as may be deemed necessary and proper; and to determine where the schoolhouse shall be erected or located in said district and also to determine at what age the youth within such district may be admitted into a school kept by a master or mistress, and whether any scholars shall be admitted into such schools from other school districts, or from other towns or places; and to determine, if they think proper, at what time their school shall commence, and the agent or agents shall, as far as practicable, conform to such determination. *s. 8.*

E—Proceedings when school districts refuse to raise money, and in case of disagreement in location of schoolhouse.

§ 1. Whenever at any legal meeting of a school district, called for the purpose of raising money, for the erecting, repairing, purchasing or removing of a schoolhouse, or for purchasing land on which the same may stand, or for procuring utensils therefor, a majority of the voters present are opposed to the raising of money for any such purpose, it shall be lawful for the selectmen of the town, or assessors of the plantation in which such district is situated, on appli-

* *As to the power of Clerk to certify to Assessors in certain cases see page 17, note.*

ation in writing of any five or more freeholders, inhabitants of such school district, to insert in their warrant for calling the next town or plantation meeting, an article requiring the opinion of the town or plantation relative to such subject as proposed in the said district meeting; and if a majority of the voters present in such town or plantation meeting, shall think it necessary and expedient, they may grant a sum sufficient for any of the purposes aforesaid, to be assessed on the polls and estates in said school district, to be collected and paid as is in this act provided. *ch. 651, s. 12.*

2. When three fourths of the inhabitants who are legal voters in any district, cannot agree where to erect or locate a schoolhouse in their district, or where two thirds of such inhabitants are not in favor of removing a schoolhouse, the selectmen of the town or the assessors of the plantation, to which such district belongs, upon application made to them in writing by any two or more legal voters of said district, or the committee of the district chosen to superintend the building or purchasing of such schoolhouse, are hereby authorized and empowered to determine on the place where such schoolhouse shall be erected or located, or removed to. *s. 13.*

3. When it shall be found convenient to form a school district from parts of adjoining towns or plantations, such towns or plantations concurring therein may establish such district, and define the limits thereof and grant any sum of money for the purposes and in the manner provided in the twelfth section of this Act. And the Selectmen or Assessors shall have jointly all the powers provided in the thirteenth section of said Act. *s. 6.*

4. The district so formed shall be a body corporate to all intents and purposes, as if comprised in one town or plantation. And such district, may, by such towns or plantations, be altered or discontinued, in like manner as any town may alter or discontinue its own districts. *ib.*

5. The Assessors of any town or plantation, of which such district shall form a part, shall assign to such district a proportion of the money raised for the support of schools, according to the number of children in that part of such district which may be within such town or plantation; and all money raised by such district, or by the towns or plantations composing the same, shall be paid into the treasuries of the towns or plantations to be assigned in manner aforesaid, or applied to the purposes for which it shall have been legally raised by the district. *s. 7.*

6. In issuing warrants for district meetings, recovering damages for injuries done to district buildings, giving to instructors certificates of qualification, directing what books shall be used, and visiting, superintending and disciplining the school, the Selectmen or Assessors, the Treasurer and school committee of the eldest town or plantation shall have the same powers and be subject to the same duties, respecting such district, as respecting districts wholly in their own town or plantation. And such district shall in all cases choose its own school agent. *ch. 651, s. 7.*

7. Any inhabited island, so distant from the main that in the opinion of the town or plantation to which it belongs, it cannot with convenience or advantage be included in any school district, and too small to compose a district by itself, may be omitted in districting the town or plantation; and in such case the assessors shall assign to the inhabitants of such island their proportion of school money according to the number of scholars on said island, to be by them expended for the purpose of instruction, in such way as the superintending school committee shall approve. *s. 18.*

F.—Appropriation of Penalties; forfeiture of the appropriation by neglect.

All forfeitures and penalties for a breach of this act, shall be recovered by indictment or information before any court of competent jurisdiction; and it shall be the duty of all grand jurors, to make due presentment thereof in all cases that shall come to their knowledge, and such penalty, when recovered, shall in all instances be paid into the treasury of the town or plantation where the same was incurred, for the support of schools therein, in addition to the sum required to be raised by this Act, and the cost of prosecution into the county treasury. And if any town or plantation shall neglect for the space of one year so to appropriate and expend any fine or penalty, they shall forfeit the same, to be recovered in an action of debt to the use of the person who may sue therefor. *ch. 651, s. 19.*

**G—Returns of districts, schools, and money raised ;
and distribution of Bank tax for the support of
schools.**

§ 1. It shall be the duty of the Selectmen of towns and the Assessors of plantations respectively, to make out a statement annually of the number of scholars in each of their districts, between the ages of four and twenty-one years, as the same existed on the first day of May preceding, with such other facts as are required to be returned in the fifteenth section of this act, and to transmit such statement within the first three weeks of the annual session of the Legislature to the Secretary of State, and to certify upon oath in said statement that the same is true and correct according to their best knowledge and belief; and the distribution of the Bank tax appropriated for the benefit of primary schools by an act entitled "An additional Act to provide for the education of youth," passed March fourth in the year of our Lord one thousand eight hundred and thirty-three among the several cities, towns and plantations in this State, shall be predicated upon the statements so made and returned, any thing in said act to the contrary notwithstanding. *ch. 651, s. 20.*

2. The Selectmen of towns and Assessors of plantations shall annually apportion and cause to be distributed the sums received of the State as aforesaid, among their several school districts, in the same manner as other moneys, raised for support of schools, is required to be apportioned and distributed. *ch. 4. s. 6.*

8. Nothing in this Act contained shall exonerate any town or plantation from raising and expending for the support of schools the sums now required of them. respectively by law. *s. 7.*

SELECTMEN.

A.—Selectmen, when to be chosen ; to be sworn duty to run the lines between towns and the marks ; and their liability for neglect t

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| <p>§ 1. Selectmen chosen at the annual meeting.</p> <p>2. Their oath.</p> <p>3. Bounds of townships confirmed</p> <p>4. Lines between towns to be run and marks renewed in 1825, and every 5 years</p> | <p>thereafter.</p> <p>5. Proceedings relating to be recorded ;</p> <p>ib. By whom notice given.</p> <p>6. Forfeiture for neglect</p> <p>ib. Limitation of prosec</p> |
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**B.—Their power to call town meetings ;
Proceedings in case of refusal.**

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| <p>§ 1. Mode of calling town meetings.</p> <p>2. Selectmen to insert articles in warrants at request of ten or more freeholders, or call special meeting.</p> <p>3. Subject matter must be in-</p> | <p>serted in warrants, ceedings void.</p> <p>4. On unreasonable denial of selectmen, Justice n meetings.</p> <p>5. In case of death, rem survivors, &c. n meetings.</p> |
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**C.—Their power and duty to provide again
spreading of contagious sickness.**

**(a) Their duty to license, to provide and to r
hospitals ; to give notice to travellers of in
places ; and herein of the duty and liab
individuals in certain cases.**

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| <p>§ 1. No person to be inoculated for small pox, but at licensed hospitals.</p> <p>ib. Penalty for licensing hospital</p> <p style="padding-left: 20px;">• within 100 rods of a dwellinghouse, without consent, &c.</p> <p>2. Persons and property connect-
ed with hospitals, to be sub-</p> | <p>ject to regulations c
men or committee.</p> <p>3. The duty of Selec
provide hospitals, &
small pox breaks
town.</p> <p>4. Regulations of such t</p> <p>ib. In what cases Selec
cause infected pe</p> |
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| <p>removed there.</p> <p>i. In what cases the hospital regulations shall extend to other houses and persons.</p> <p>i. Penalty for violating regulations.</p> | <p>6. Selectmen to give notice to travellers of infected places.</p> <p>7. Penalty on householders for neglect to give notice to Selectmen of cases of small pox in their families.</p> |
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b) Their power and duty as to infected persons or infected goods.

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| <p>1. Selectmen to make provision for sick persons arriving from infected places, and removing them to separate houses ;</p> <p>i. At whose charge assistance shall be rendered them.</p> | <p>2. Selectmen to appoint persons to attend at ferries, &c. to prevent travelling of infected persons until licensed.</p> <p>3. Power of Selectmen and others in regard to infected baggage, &c.</p> |
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c) Their power and duty in regard to masters, seamen or passengers of infected vessels, or those suspected to be so, or those arriving from sickly ports ;

Their power and duty to order vessels to perform quarantine in certain cases.

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| <p>1. Penalty for masters of vessels from infected ports, &c. refusing to answer on oath questions by selectmen ;</p> <p>i. Appropriation thereof.</p> <p>i. Vessels with infected persons on board not to approach town without liberty of Selectmen.</p> <p>i. Selectmen may order quarantine in certain cases.</p> | <p>4. Selectmen to provide red flags.</p> <p>ib. Vessels on quarantine to hoist such flags ;</p> <p>ib. No person to go on board except, &c.</p> <p>5. By whom expenses of performing quarantine are to be paid.</p> |
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d).—Their power to assign places for noxious trades, and their duty in relation to juries for inquiring into nuisances.

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| <p>1. Power to assign places, &c.</p> <p>i. Specification of trades.</p> <p>i. Assignment to be recorded, &c.</p> | <p>2. Juries to be drawn by Selectmen.</p> |
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E.—Power and duty of Selectmen, and of other town and plantation officers, to license innholders, retailers, &c.

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| <p>§1. Duty of Selectmen, Assessors of plantations and treasurers and clerks, to notify and hold annual meetings for granting licenses.</p> | <p>2. Selectmen to furnish retailers, &c. with lists of intemperate persons.</p> |
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F.—Their duty relative to idiots, lunatics, and dissipated persons.

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| <p>§1. Judges of Probate may appoint guardians to idiots and lunatics, if Selectmen after inquisition certify them to be incapable of taking care of themselves.</p> <p>fb. Duty of guardians.</p> <p>2. On complaint of Selectmen,</p> | <p>guardians may be appointed to spendthrifts, idlers, &c.</p> <p>3. Tipplers and gamblers to be posted in public houses.</p> <p>4. Selectmen or Assessors may prohibit the sale of liquors to excessive drinkers, &c.</p> |
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G.—Their authority relative to drains, common shores, and aqueducts.

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| <p>§1. How drains, &c. must be made.</p> <p>ib. Of contribution to expenses by those benefitted thereby.</p> <p>2. Expenses of opening drains, &c. to be repaired; how apportioned and defrayed.</p> <p>3. Proceedings when a person wishes to open a drain, &c. for repair.</p> | <p>4. Penalty for breaking up highway, &c. without consent of Selectmen.</p> <p>5. Proviso as to agreements among proprietors.</p> <p>6. Proprietors of aqueducts may, by leave of Selectmen, dig up streets, &c. to lay pipes.</p> <p>7. In what cases towns may lay pipes connected with aqueducts to draw off water.</p> |
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H.—Their power to make regulations for the safe keeping of Gunpowder, and in prevention of damage by fire, and to protect Bridges.

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| <p>§1. Selectmen may make rules as to keeping of gunpowder in certain towns.</p> <p>2. Powder, when it may be seized and libelled.</p> <p>3. Their power of search.</p> <p>4. Penalty after notice, for neglect to remove or repair defective stoves, chimnies or pipes.</p> | <p>5. Rules not to be in force until, &c.</p> <p>6. Towns may prohibit burning bricks.</p> <p>7. Selectmen may remove at owner's expense.</p> <p>8. May prohibit riding or driving fast over Bridges.</p> |
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—Their duty (and that of Assessors and Clerks) respecting the removal or erection of county buildings in certain cases.

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| §1. Selectmen and Assessors of plantations, to have notice of removal or erection of county buildings in certain cases. | 2. Their duty and that of clerks thereupon.
3. In what cases Court of Sessions may, or may not, proceed to remove or erect such buildings. |
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K.—Their duty, and that of other town officers, and of towns, relative to jurors, and their liability for neglect thereof.

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| §1. Selectmen to provide and keep a jury box.
ib. Once in 3 years to prepare a list.
ib. Persons exempted from serving as jurors.
2. Number of names of persons to be in jury boxes.
3. Town to revise and confirm their proceedings.
ib. Box to be kept by town Clerk.
ib. Persons liable to serve once in 3 years.
4. Persons liable to serve once in 18 months in certain cases.
5. Names of persons convicted, &c. to be withdrawn. | 6. Number liable to be drawn in each town.
7. Mode of drawing jurors.
8. In what cases names drawn shall be returned and others drawn.
9. Date of drafts to be indorsed on tickets;
ib. And transferred on renewal or exchange.
10. Fines on Selectmen, towns, and town Clerks, for neglect of duty.
11. Appropriation and recovery of fines; limitation of actions.
12. Selectmen's duty to return jurors for appraising damages by flowing lands. |
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L.—Their powers and duties in binding out minors.

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| §1. Minors under 14 years of age.
2. Minors of or above 14 years of age.
3. Both parties to execute similar deeds;
ib. If approved by Selectmen, to be signed by them.
ib. Consideration thereof to be secured to the minor. | 4. Contracts valid as to minors and others.
5. Selectmen, &c. to inquire into treatment of minors.
ib. Complaint to C. C. Pleas for cruelty, &c.
ib. As to respondent's costs against Selectmen, &c. |
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M.—Selectmen, with the town Clerk and Treasurer, made Trustees of the Ministerial and School lands.

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| §1. Selectmen, town Clerk and Treasurer constituted Trustees, with the powers incident thereto.
2. Their power to dispose of the school and ministerial lands.
3. Their power to take and hold land or personal estate for the use of the ministry.
4. May dispose of such lands with consent of the town.
5. Rents and profits how apportioned and distributed.
6. Said Trustees to render an account annually. | 7. Assessors, Clerk and Treasurer of Parishes constituted Trustees in case.
8. Mode of calling meetings of the Trustees.
9. Trustees of Ministerial fund may surrender to Selectmen, &c.
ib. Income to be applied to schools.
10. Income from ministerial lands to be applied to schools.
11. To be expended in same manner as school money. |
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N.—Their power respecting shows and exhibitions.

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| §1. Shows and exhibitions prohibited without a license.
2. Fees for license granted by Selectmen. | 3. Fine for exhibiting animals without license.
4. Selectmen, &c. may license.
5. Their duty to prosecute for fines. |
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A.—Selectmen, when to be chosen; to be sworn; their duty to run the lines between towns and renew the marks; and their liability for neglect thereof.

§ 1. The qualified voters in the several towns shall assemble annually in the month of March or April, at such time and place in the same town as they shall be notified to attend, by the Constables of the town or such others as the Selectmen shall appoint to notify the same, and shall then and there by a major vote, and by written ballots, choose three, five or seven able and discreet persons of good conversation, inhabiting in the town, to be Selectmen and Overseers of the Poor, when other persons shall not be particularly chosen to that office, (which any town may do, if they think it necessary and convenient.) *ch. 114, s. 1.*

2. The Selectmen of the several towns in this State shall be sworn to the faithful discharge of the duties of their respective offices previous to entering thereupon. *ch. 260, s. 3.*

3. The bounds of all townships shall be and remain as heretofore granted, settled and established. *ch. 114, s. 8.*

4. To prevent an interference of jurisdiction, the lines between towns shall be run and marks renewed within three years from the last day of March, (1822,) and once every five years forever after, by two or more of the Selectmen of each town or such other persons as they shall in writing appoint to run and renew the same. *ch.* 114, *s.* 8.

5. Their proceedings after every such renewal of boundaries, shall be recorded in the respective town books; the Selectmen of the most ancient town to give ten days' notice in writing unto the Selectmen of the adjoining towns, of the time and place of meeting for such perambulation. *ib.*

6. But the Selectmen who shall neglect their duty in notifying, or attending either personally or by their substitutes to perambulate the line at the time and places assigned as aforesaid, shall severally forfeit and pay the sum of ten dollars, two thirds to the use of the town which shall comply with their duty as aforesaid, and the other third part unto any two or more of the Selectmen of the town so complying, who are hereby empowered to inform or sue therefor in the Court of Common Pleas for the same county, at any time within two years after the forfeiture shall be incurred and not afterwards. *ib.*

**B.—Their power to call town meetings ;
Proceedings in case of refusal.**

§ 1. When there shall be occasion of a town meeting the Constable or Constables, or such other person as shall be appointed for that purpose, by warrant from the Selectmen, or the major part of them, shall summon and notify the inhabitants of such town, to assemble at such time and place, in the same town, as the Selectmen shall order; the manner of summoning the inhabitants to be such as the town shall agree upon. *ch.* 114, *s.* 5.

2. When ten or more of the freeholders of a town shall signify in writing their desire to have any matter or thing inserted in a warrant for calling a meeting, the Selectmen are hereby required to insert the same in the next warrant they shall issue for a meeting, or call a meeting for the express purpose of considering thereof. *ib.*

3. And no matter or thing shall be acted upon in such a manner as to have any legal operation whatever, unless the

subject matter thereof be inserted in the warrant for calling the meeting. *ch. 114, s. 5.*

4. In case the Selectmen shall unreasonably deny to call a meeting upon any public occasion, any ten or more of the freeholders of such town may apply to a Justice of the Peace within and for the same county, who is hereby authorized and empowered to issue his warrant under his hand and seal directed to the Constable or Constables of the town, if any such there be, otherwise to any of the freeholders applying therefor, directing him or them to notify and warn the inhabitants qualified to vote in town affairs, to assemble at such time and place in the same town, as the said Justice shall in his said warrant direct, and for the purpose in the same warrant expressed. *ib.*

5. When by reason of death, removal or resignation of Selectmen, a major part of the number originally chosen shall not remain in office within any town; in every such case, a major part of the survivors, or of such as remain in office, shall have the same power to call a meeting as a major part of the whole number first chosen. *ib.*

C.—Their power and duty to provide against the spreading of contagious sickness.

- (a) Their duty to license, to provide and to regulate hospitals; and to give notice to travellers of infected places; and herein of the duty and liability of individuals in certain cases.

§ 1. No person shall inoculate any other person or inoculate himself or herself, or suffer himself or herself to be inoculated with the small pox, unless, at some hospital licensed by the Selectmen of the town. *Provided,* No such hospital shall be erected or licensed within one hundred rods of any dwellinghouse situated in an adjoining town without the consent of the Selectmen of such adjacent town, on pain that every person so offending shall for each offence forfeit a sum not exceeding one hundred dollars, to be recovered on indictment or presentment of the Grand Jury at the Supreme Judicial Court, or Court of Common Pleas within the county, to the use of the town, in which such offence shall have been committed. *ch. 127, s. 16.*

2. Whenever any hospital shall be so erected, established licensed, the physician, the persons inoculated, or sick are, the nurses, attendants, and all persons who shall approach or come within the limits of the same, and all such property as shall be used or brought there, shall be subject all such orders and regulations as shall be made by the selectmen, or a committee appointed for that purpose, to event spreading the infection. *ch. 127, s. 17.*

3. When the small pox shall unexpectedly break out in any town, the Selectmen of the same shall have power, and shall be their duty, immediately to provide such hospital place of reception for the sick and infected as they shall judge best for their accommodation and the safety of the inhabitants, and may give license for inoculating there, all such persons as shall be supposed to have taken infection.

4. Such hospitals and places of reception shall be subject to the orders and regulations of the Selectmen in the same manner as is herein before provided respecting licensed hospitals, and the said Selectmen shall cause such sick and infected persons to be removed to such hospital or places of reception, unless the condition of the sick person should not admit of removal without danger of life, in which case the house or place where the sick shall remain, shall be considered as an hospital to every purpose before mentioned and all persons residing in, or in any way concerned with the same, shall be subject to the orders and regulations of the Selectmen of the town as before expressed and provided. 18.

5. In case any physician or other person within any of the hospitals or places of reception above described, or who shall attend, approach, or be concerned with the same, shall violate or contravene any of the restrictions, orders or regulations of the same, made according to this Act, either in respect of himself, or his or any other person's property, such person so offending shall for each offence forfeit and pay a sum not exceeding one hundred dollars, nor less than ten dollars, to be recovered by the Selectmen, committee or health officer who may sue for the same, one half to the use of the person or persons who prosecute for the same, and the other half to the use of the town where the offence shall have been committed. *s. 19.*

6. In all cases mentioned in this statute, it shall be the duty of the Selectmen to use all possible care to prevent the

spreading of infection, and to give public notice to travellers of infected places by displaying red flags at proper distances, and by all other means which in their judgment shall be most effectual for the common safety. *ch. 127, s. 19.*

7. Whenever any householder shall know that any person within his or her family is taken sick of the small pox, such householder shall immediately give notice thereof to the Selectmen of the town of which such householder shall be an inhabitant or resident, on pain that every householder who shall refuse or neglect to give such notice, shall forfeit and pay for such offence, a sum not exceeding thirty dollars, nor less than ten dollars, to be recovered in the same manner as is provided for recovering the forfeitures mentioned in the sixteenth section of this Act, and to be appropriated and paid in the same manner. *s. 20.*

(b) Their power and duty as to infected persons or infected goods.*

§ 1. For the better preventing the spreading of infection, when it shall happen that any person or persons coming from abroad, or belonging to any town or place within this State, shall be visited, or shall lately before have been visited with the plague, small pox, pestilential or malignant fever, or other contagious sickness, the infection whereof may probably be communicated to others; the Selectmen of the town where such person or persons may arrive or be, are hereby empowered to take care and make effectual provision in the best way they can for the preservation of the inhabitants, by removing such sick or infected person or persons, and placing him or them in a separate house or houses, and by providing nurses, attendance, and other assistance and necessities, for them; which nurses, attendance, and other assistance and necessities shall be at the charge of the parties themselves, their parents or masters, (if able) or otherwise at the charge of the town or place whereto they belong and in case such person or persons are

* See also the ensuing head.

not inhabitants of any town or place within this State, then at the charge of the State.* *ch. 127, s. 1.*

2. It shall and may be lawful for the Selectmen of any town near to, or bordering upon either of the neighboring States, to appoint, by writing under their hands, some meet person or persons to attend at ferries or other places by or over which passengers may pass from such infected places; which person or persons so appointed, shall have power to examine such passengers as they may suspect to bring infection with them, and if need be, to hinder and restrain them from travelling, until licensed thereto by a Justice of the Peace within such county, or by the Selectmen of the town in which such person or persons may come.† *s. 3.*

3. Whenever there shall be brought into any town within this State, either from any other town therein, or from parts without the State, any baggage, clothing or goods of any kind whatsoever, and it shall be made to appear by the Selectmen of the town to which such baggage, clothing or other goods shall be brought, or by the major part of such Selectmen, to the satisfaction of any Justice of the Peace, that there is just cause to suspect baggage, clothing or other goods to be infected with the plague, small pox, pestilential

* Persons coming from infected places out of the State to any town within the State, shall, when duly required, give notice to the Selectmen or Clerk thereof, of their coming and from what place, under penalty of \$100. *s. 2.*

Such persons shall depart from the State if ordered by the Selectmen, if able, &c. and on refusal a Justice may issue warrant to remove them.

Penalty for returning without liberty from such Justice, \$400. *ib.*

Penalty on an inhabitant for entertaining persons warned to depart, \$200. *ib.*

Forfeitures to be recovered by action of debt, in any court of record proper to try the same; one moiety to the use of the town where the offence is committed, the other moiety to the use of the person who may sue for the same. *s. 3.*

† Any passenger who, coming from such infected place, shall (without license as aforesaid) presume to travel within this State, unless it be to return by the most direct way to the State from whence he came, after he shall be cautioned to depart by the person or persons appointed as aforesaid, shall forfeit and pay the sum of one hundred dollars; to be recovered as in the preceding note. *s. 3.*

Any two Justices of the Peace may make out a warrant directed to the Sheriff of the county, or his deputy, or Constables of the town or place where any such sick person or persons may be, requiring them or any of them, with the advice and direction of the Selectmen of the same, to remove such infected persons, or to impress and take up convenient houses, lodging, nurses, attendance and other necessaries, for the accommodation, safety and relief of the sick. *s. 4.*

fever, or other malignant contagious distemper; such Justice is hereby required to issue his warrant under his hand and seal, directed to the Sheriff or his deputy, or any Constable of the town in which such baggage, &c. shall be, requiring him to impress so many men as the Justice shall judge necessary to secure such baggage, &c. and if it shall appear necessary, with the advice and direction of said Selectmen, to impress and take up convenient houses or stores, for the receiving, lodging and safe keeping of such baggage, clothing or other goods, until the same shall be sufficiently cleansed from infection: or to remove the same to some convenient place, there to remain until the same shall be sufficiently aired and freed from infection, in the opinion of said Selectmen.* *ch. 127, s. 5.*

(c) Their power and duty in regard to masters, seamen or passengers of infected vessels, or those suspected to be so, or those arriving from sickly ports;

Their power and duty to order vessels to perform quarantine in certain cases.

§ 1. If any master, seaman or passenger belonging to any vessel, on board which any infection is, or may have lately been or suspected to have been, or which may have come from any port where any infectious mortal distemper prevails, shall refuse to make an answer on oath to such questions as may be asked by him or them, relating to such infection, by the Selectmen of the town to which such vessel may come, (which oath the said Selectmen are hereby empowered to administer) such master, seaman or passenger so refusing, shall forfeit the sum of two hundred dollars; and in case he be not able to pay said sum, he shall suffer six months imprisonment; said penalty to be adjudged on prosecution by indictment or information in any Court proper to try the same, one moiety of said fine to the use of the town where the offence may be committed, and the oth-

* Officers may break up houses, shops, &c. and may command aid to effect execution of the warrant; penalty for disobedience, \$10.

The charges of securing such baggage, clothing or other goods, and of airing and transporting the same, shall be borne and paid by the owners thereof at such rates and prices as shall be set and appointed by the Selectmen of the town where such baggage, &c. shall be. &c.

or moiety to the use of the Selectmen thereof, whose particular duty it is hereby made to prosecute therefor. *ch. 127, s. 6.*

2. Whenever any vessel shall arrive at any port within this State, having on board any person visited with the plague, small pox, malignant fever, or any other pestilential disease, the master, commander or pilot thereof, shall not bring such vessel up near the town of the port where she first arrives, until liberty be first granted, in writing, by the selectmen thereof; but they may bring such vessel to anchor in such place below the town, as will be most for the safety of the inhabitants thereof, and the preservation of the vessel and the people on board, there to wait for orders from the Selectmen of such town before any passenger or person belonging to, or any thing on board the same be brought on shore.* *s. 9.*

3. Whenever it shall appear to the Selectmen of any seaport town within this State, that the safety of the inhabitants thereof requires, that any vessel or vessels which shall arrive in any harbor or river within this State, from any port or place, should perform quarantine, the Selectmen of any town where such vessel shall so arrive, are hereby required and empowered to cause such vessel or vessels to perform quarantine, at such place as they shall appoint, and under such restrictions and regulations as they may judge expedient.† *s. 10.*

* Any master or commander guilty of a breach of this section, shall forfeit and pay two hundred dollars. And any pilot who may go on board any such vessel and pilot the same up to the town, without liberty first had and obtained from the Selectmen, shall forfeit and pay fifty dollars: fines contained in this section may be sued for and recovered, with costs, by the Selectmen of the town where the offence is committed, to and for the use of the same town. *s. 9.*

† Any owner, master or supercargo, officer, seaman or consignee of such vessel or vessels, or any other person who shall neglect or refuse to obey orders, directions, rules, regulations and restrictions respecting quarantine, shall forfeit and pay a sum not exceeding five hundred dollars, or be imprisoned for a term of time not exceeding six months, or both, at the discretion of the Court. *s. 10.*

Any master of any vessel coming up to a seaport town, with his vessel, after notice of quarantine for vessels from the place whence he shall have arrived; or eluding the directions of the Selectmen by false declarations of the place whence arrived; or landing, or suffering to be landed persons or property without permission, shall be subject to similar fine and imprisonment. *s. 11.*

If any pilot after notice given to him of the order of Selectmen to perform quarantine, shall neglect to make known the said order, or shall pilot any such vessel up to any town, he shall forfeit and pay a sum not exceeding one hundred dollars. *s. 12.*

The above forfeitures shall accrue to the use of the town where the offence shall be committed. *s. 15.*

4. The Selectmen of each of the seaport towns aforesaid shall provide, at the expense of such towns, a suitable number of red flags, of three yards at least in length; and the master of every vessel ordered to perform quarantine, for the purpose of purification, shall hoist one of said flags on the head of the mainmast, there to be kept during the whole time, so long as said vessel or vessels are performing quarantine; and no person during that time shall go on board except those employed by the said Selectmen; and every person who shall transgress by going on board any such vessel, shall be considered as contaminated with infection, and held to undergo purification in the same manner, and under the same regulations and restrictions as those persons who are performing quarantine on board such vessel or vessels, and shall there remain until discharged by order of said Selectmen, who, by any person or persons employed by them, may forcibly detain such person or persons, transgressing as aforesaid, for the purpose of purifying as aforesaid. *ch.* 127, *s.* 13.

5. All expenses arising from any vessel, person or persons, or effects on board the same, performing quarantine as aforesaid, shall be paid by the owner or owners of such vessel, or effects on board the same; and in case of refusal to pay such expenses, the same may be recovered by an action of debt in the name of the Selectmen, health committee or health officer, as the case may be, in any Court proper to try the same.* *s.* 15.

D.—Their power to assign places for noxious trades and their duty in relation to Juries for inquiring into nuisances.

§ 1. The Selectmen of every town in this State, where the Selectmen thereof, together with any two Justices of the Peace in the same county, shall judge such regulation to be necessary, shall from time to time, as occasion shall be, assign some certain places for the exercising any of the trades or employments, of killing creatures for meat, distilling of spirits, trying of tallow or oil, currying of leather, and making earthen ware, and forbid and restrain the exercise of either of them in other places not so approved and allowed; † and

* For the power of health officers, in certain cases, to require vessels to perform quarantine, see page 153, *s.* 3.

† Fine for offence §20. *s.* 2.

all assignments of such houses or places by Selectmen, with the assent of two or more Justices, for the exercise of any of the occupations aforesaid, shall be entered in the town book where such Selectmen respectively belong; and also made known by having notifications thereof posted up in some public places in the same town. *ch. 24, s. 1.*

2. When two Justices of the Peace, *quorum unus*, issue a warrant to the Sheriff, on complaint for nuisance, twelve good and lawful men of the same county, shall be drawn in equal proportion out of the Jury box, by the Selectmen of the three towns next adjoining to the town in which such nuisance may be, at a meeting of such Selectmen, to be holden forthwith for that purpose, upon the requisition of such Sheriff.* *s. 7.*

E.—Power and duty of Selectmen, and of other town and plantation officers, to license innholders, retailers, &c.

§ 1. It shall be the duty of the Selectmen, Treasurer and Town Clerk of each and every town, and the Assessors, Treasurer and Clerk of each plantation, and the Aldermen and City Clerk of each city in this State, to meet on the 1st Monday of September, annually, or on the succeeding day, at such time on either or both of said days, and at the place they shall appoint, by posting notice thereof in two public places in such town, plantation, or city, seven days before the time of such meeting, and at such meeting may license to be victuallers, innholders, or sellers of wine, brandy, rum, or other strong liquors by retail in such town, plantation, or city, for one year from that date, as many persons of sober life and conversation and of a good moral character and suitably qualified for the employment, for which they may severally apply to be licensed, as they may deem necessary; each person who shall be so approved, shall, before being licensed give a bond with sufficient surety or sureties to the treasurer of the town, plantation, or city in which said license shall be granted, in the penal sum of three hundred dollars: which bond shall be in form following:

* The warrant to the Sheriff describes the jury as "good and lawful men, &c. each one of whom having freehold of the yearly value of ten dollars." *s. 7.*

Know all men by these presents, That we within
the (town of) in the State of Maine, are holden and
stand firmly bound and obliged unto A. B. Treasurer of
said town of in the full sum of Three Hundred Dollars
to be paid to the said A. B. and his successor in said office,
to the true payment whereof, we do bind ourselves and
each of us, and our heirs, executors and administrators
jointly and severally, by these presents. Sealed with our
seals. Dated the day of in the year of our
Lord one thousand eight hundred and

The condition of this obligation is such, that whereas the
above named having been duly licensed as an Inn-
holder, (or as the case may be) within the said town of

for one year next ensuing the date hereof; now if
the said shall in all respects, observe and conform
himself to such rules and regulations in reference thereto
as may be prescribed by the board granting said license,
and shall in no respect violate any of the provisions of the
Act for the regulation of innholders, retailers, and common
victuallers, then the above written obligation shall be void
and of none effect, or else shall abide and remain in full
force and virtue.

And each of the persons who shall be so licensed shall
pay to the selectmen, treasurer and town clerk of towns, or
to the assessors and clerk of plantations, or to the aldermen
and city clerk (as the case may be) the sum of one dollar
as a fee for granting such license: and the clerks respective-
ly shall make a record of all licenses granted; and said
selectmen, or treasurer and clerk, or aldermen and clerk,
may at any other time, at a meeting held for that purpose,
license any person suitably qualified as aforesaid, and all
licenses shall expire on the first Monday in September after
granting the same; all licenses now granted shall continue
for the time for which they were granted. *ch. 663, s. 2.*

2. It shall be the duty of the selectmen of each town, the
assessors of each plantation and the aldermen of each city
to deliver to each innholder and retailer by them licensed,
at the time of granting such license, and as often after-
wards as any case shall occur, the name of every person
known by them to be addicted to intemperate use of strong
liquors, and every innholder or retailer who shall sell or in
any manner furnish to any such person any wine, spirit-
ous or mixt liquors, part of which is spiritous, shall forfeit
the penalty of their bond. *s. 6.*

3. The Selectmen, treasurer and town Clerk of each town, the assessors, treasurer and clerk of each plantation and the selectmen and city clerk of each city, are hereby empowered, and it shall be their duty, in every instance which shall come to their knowledge, of a violation of any of the provisions of this Act, by any innholder, retailer or victualler, to revoke and make void the license of such innholder, retailer or victualler, and to cause the bond of such innholder, victualler or retailer to be prosecuted, after complaint made and hearing thereon. *ch. 663, s. 8.*

3.—Their duty relative to idiots, lunatics, and dissipated persons.

§ 1. Judges of Probate within their respective counties, upon request made by the friends, relations, or creditors of any idiot, *non compos*, or lunatic person, or by the Overseers of the poor in such town where such idiot, *non compos*, or lunatic person lives, or is an inhabitant, may direct the Selectmen of such town to make inquisition thereinto, and if the person said to be an idiot, lunatic or distracted person, shall be adjudged by the Selectmen of the town (or the major part of them) where such person resides, to be incapable of taking care of him or herself, and they shall certify the same under their hands, to the Judge, the said Judge of Probate after giving due notice to such idiot, *non compos*, or lunatic person, shall be empowered to appoint some suitable person or persons to be guardian or guardians to such idiot, lunatic, *non compos*, or distracted person, directing and empowering such guardian or guardians to take care of the person and estate, both real and personal, of such person, to make a true and perfect inventory of the said estate upon oath, to be returned into and filed in the Probate office in such county. *ch. 51, s. 49.*

2. When any person by excessive drinking, gaming, idleness or debauchery of any kind, shall so spend, waste or lessen his or her estate, as thereby to expose himself or herself, or his or her family to want; or shall by thus spending, wasting or lessening his or her estate, endanger or expose the town to which he or she belongs, in the judgment of the Selectmen thereof, to charge or expense for the maintenance or support of him or her, or his or her family, such Select-

men (or the major part of them) shall make a complaint in writing to the Judge of Probate for the county to which person so spending, wasting or lessening his estate, do belong; and if it shall appear to the said Judge of Probate that the person complained of comes within the description of this Act, and has had due notice of the complaint exhibited against him or her, the said Judge of Probate shall appoint the said Selectmen, or the major part of them, or a suitable and discreet person or persons, guardian or guardians to such a person. *ch. 51, s. 53.*

3. The Selectmen in each town, and the Assessors of each plantation, shall cause to be posted up in the houses or shops of all innholders, victuallers and retailers within such towns or plantations, a list of the names of all persons reputed common drunkards, or common tipplers, or common gamblers, mispending their time and estate in such houses. *ch. 133, s. 6.*

4. Whenever any person shall by idleness, or excess drinking of spirituous liquors, so mispend, waste, or lose his estate as thereby either to expose himself or his family to want or indigent circumstances, or the town to which he belongs, to a charge or expense for the maintenance or support of him or his family, or shall so indulge himself in use of spirituous liquors, as thereby greatly to injure health, or endanger the loss thereof, such Selectmen or Assessors, shall, in writing under their hands, forbid all licensed persons, in their respective towns or plantations, to supply to any of the aforedescribed mispenders of time and estate any spirituous or strong liquors, in this Act mentioned, for the space of one year, and shall in like manner forbid licensed persons of any other town or plantation to which such misspender may resort for the same. And if any of the persons contained in the said prohibition shall not in the opinion of the said Selectmen or Assessors, or the major part of them, have reformed during the said year; in such case, the Selectmen of such town, or the Assessors of such plantation shall renew the prohibition in manner as aforesaid. *s. 7.*

G—Their authority relative to drains, common shores and aqueducts.

§ 1. All drains and common shores for the draining of cellars, made or repaired in any streets or highways,

be substantially done with brick or stone, or with such other materials as the Selectmen of the town shall permit, and in such manner as the said Selectmen shall direct; and when any of the inhabitants at their own charge make and lay any common shore or main drain, every person who afterwards shall enter his or her particular drain into the same; or shall receive any benefit thereby, for the draining of their cellars or lands, shall pay a proportionable part of the charge of making or repairing the same, to be ascertained and determined by the Selectmen of the town, or a major part of them, and certified under their hands; saving always to the party aggrieved at any such determination, a right of appeal to the Court of Sessions. *ch. 121, s. 2.*

2. When any common shore or main drain shall be stopped or gone to decay so that it shall be necessary to open the same in order to repair it, or remove such stoppage, all the persons benefitted thereby, shall be held to pay their proportional parts of the expenses thereof, to be ascertained and determined as aforesaid, saving an appeal as aforesaid. And each person so held to pay, shall have notice thereof of the sum, and to whom, to be paid; and if such person shall not pay the same, within ten days after such notice, to the person appointed by the Selectmen to receive it, he or she shall be held to pay the person, so appointed, double the sum mentioned in such certificate, with costs. *s. 3.*

3. *Provided*, That the person or persons who shall have occasion to open the same shall, seven days at least before they begin, notify all persons interested therein, by advertising in such manner as the Selectmen may direct, that they may (if they think proper) object thereto, and lay their objections in person, or writing, before the Selectmen: and if the Selectmen, or the major part of them, shall judge the objections reasonable, then the person or persons making the same, shall not be held to pay any part of such expenses; but if they do not make their objections within three days after being so notified, or if the Selectmen deem the objections not sufficient, they shall, under their hands, give liberty to the persons applying to proceed. *ib.*

4. If any person shall dig or break up the ground in any highway, street or lane in any town, for the laying, altering, repairing or amending of any drain or common shore without the consent of the Selectmen of the town, signified in writing, under the hand of the town Clerk, such person shall forfeit and pay four dollars for each offence, to the use of the poor of the town, to be recovered with costs of suit, in

an action of debt, by the Treasurer thereof, before any disinterested Justice of the Peace in the county. *ch. 121, s. 1.*

5. Nothing in this Act shall affect or make void any covenants or agreements among the proprietors of such drains or common shores. *s. 3.*

6. Proprietors of aqueducts, or corporations, for conveying fresh water into towns or places, when they shall find it necessary, shall have power to enter upon, dig up and open any such parts of the streets, highways or townways in any place within this State, for the purpose of placing such pipes as may be necessary for making and constructing such aqueduct, or for repairing or extending the same, as the Selectmen of the town or the major part of them for the time being, shall in writing authorize and allow: *Provided*, Such Selectmen shall not have power to authorize and allow any such streets, highway or townway to be entered upon, dug up or opened, so as to obstruct or hinder the citizens of the State or others from conveniently passing therein with their teams and carriages. *ch. 140, s. 7.*

7. Any town in which any such aqueduct shall be placed, shall have the privilege of placing conductors into and from the pipes and conductors laid by any such corporation, for the purpose of drawing such water therefrom, as may be necessary when any building shall be on fire in such town; and of withdrawing water therefrom on such occasions, without paying such corporation any price therefor: *Provided*, That every such town shall be holden to secure such conductors so by them placed in such a manner that water cannot be drawn therefrom, unless by order of the Selectmen or Fire Wards of the town wherein the same may be. *s. 11.*

H.—Their power to make regulations for the safe keeping of Gunpowder, and in prevention of damage by fire.*

§ 1. The Selectmen of each town containing not less than fifteen hundred inhabitants, hereby are authorized and empowered to make rules and regulations, in conformity with which, all gunpowder within such town, shall be kept, had or possessed therein; and no person or persons shall have,

* For power and duties of Selectmen at Arms, see p. 155.

or possess within such town, any gunpowder, in any quantity, manner, form or mode, other than may be prescribed by the rules and regulations aforesaid.* cA. 25, s. 1.

2. All gunpowder which shall be had, kept or possessed, within any town, contrary to the rules and regulations which shall be established by the Selectmen of such town, according to the provisions of this Act, may be seized by any one or more of the Selectmen, and shall within twenty days next after the seizure, be labelled, by filing with any Justice of Peace in such town, a libel, stating the time, place and cause of seizure, and the time and place when and where it shall be had before said Justice. s. 3.

3. It shall be lawful for any one or more of the Selectmen of any town to enter any building, or other place in such town, to search for gunpowder, which they may have reason to suppose to be concealed or kept, contrary to the rules and regulations which shall be established in such town, according to the provisions of this Act, first having obtained search warrant therefor according to law. s. 5.

4. When any stove, chimney or stove pipe, within any town containing not less than fifteen hundred inhabitants, shall be defective, or out of repair, or so constructed or placed, that any building, or other property shall be in danger of fire therefrom the Selectmen of said town shall give notice, in writing, to the possessor or possessors of such stove, chimney or stove pipes, to remove or repair the same; and if such possessor shall for the term of six days after the giving of such notice, unnecessarily neglect to remove, or actually repair such stove, chimney or stove pipes, such possessor shall, for each and every such neglect, forfeit and pay a fine of not less than ten dollars, nor more than fifty dollars.† s. 6.

5. The rules and regulations, which shall be established according to the provisions of this Act, shall be of no force or effect, until such rules and regulations, together with this Act, shall have been published by the Selectmen, three weeks successively, by printing in some newspaper printed within the county or by posting up attested copies in three several public places in the town. s. 8.

6. Each town is authorized at their annual meeting in March or April, to prohibit by vote the burning of any

* Fine for violating such regulations, not less than \$20, and not exceeding \$100. s. 2.

† Fine under this act shall accrue, one moiety to the use of the town, the other moiety to the use of the prosecutor. s. 7.

bricks, or the erecting of any brick kiln, for the purpose of burning the same, within such parts of the town as they shall deem for the safety of its citizens and their property. *ch.* 353.

7. And if any person by himself or others, shall burn any bricks, or erect any brick kiln for the purpose of burning the same within the parts wherein the same shall have been prohibited at the last annual meeting, it shall be the duty of the Selectmen, to cause the bricks, or the kilns so made, erected or burned to be forthwith removed at the expense of the owner. *ib.**

8. The Selectmen of any town in this State are authorized to prohibit any person from riding or driving any horse at a pace faster than a walk, over any bridge covered with plank for the length of fifty feet: such bridge being part of a highway or townway within the limits of such town. *Stat.* 1833, *ch.* 6, s. 2.

I.—Their duty (and that of Assessors and Clerks) respecting the removal or erection of county buildings in certain cases.

§ 1. Whenever the Court of Sessions, in any county within this State, shall adjudge the removal of any county buildings erected, or the erection of any new county buildings, to or at a place in any shire town in such county, distant more than one half of a mile from the place where any county buildings may have been erected and established; to be of public convenience and necessity, such Courts shall prior to the removal or erection of such buildings designate the place to which such county buildings erected should be removed, or at which such new county buildings should be erected and established; and shall give notice in writing of such adjudication and designation to the Selectmen of each town, and the Assessors of each plantation in the county. *ch.* 202, s. 1.

2. The Selectmen and Assessors aforesaid shall lay the said notice before such towns and plantations respectively, at their next annual meeting for the choice of State or town and plantation officers; and shall at said meeting receive,

* The penalty for each offence is not less than \$100 nor more than \$200, to be recovered by indictment, to the use of the town.

sort and count the votes that shall be given by the legal voters in favor or against said adjudication and designation; and the Clerks of said towns and plantations respectively, shall, within thirty days from and after said meeting, deliver or cause to be delivered to the Clerk of said Court a copy of the list of votes thus given, attested by the Selectmen or Assessors and by said Clerks. *ch. 202, s. 1.*

3. If upon examination by said Court of the votes so returned, a majority of the votes shall be in favor of the adjudication and designation, such Court may order the removal of such county buildings to, or the erection of such county buildings at the place so designated; but, if upon such examination of the votes, a majority shall be against said adjudication and designation, the Court shall not have power or authority to remove the same to, or erect the same at the place so designated.. *ib.*

K.—Their duty, and that of other town officers, and of towns, relative to jurors, and their liability for neglect thereof.*

§ I. The Selectmen, in each town in this State, shall provide and at all times cause to be kept in their respective towns, one Jury box; and shall, once at least in every three years prepare a list of such persons, under the age of seventy years, in their respective towns, as they shall judge best qualified to serve as Jurors, being persons of good moral character, and qualified as the Constitution directs, to vote in the choice of Representatives, excepting the Governor, Counsellors, Judges and Clerks of the Common Law Courts, Secretary and Treasurer of the State, Loan officers and Revenue officers, Judges and Registers of Probate, Registers of Deeds, settled Ministers of the Gospel, officers of any College, Preceptors of Incorporated Academies, Physicians and Surgeons regularly authorized, Cashiers of Incorporated Banks, Sheriffs and their Deputies, Marshals and their Deputies, Counsellors and Attorneys at Law, Justices of the Court of Sessions, Criers of the Judicial Courts, Constables and constant Ferry-men. *ch. 84, s. 1.*

2. The number of Jurors, whose names are contained in the Jury box of any town, shall not at any time, be less than

* For Constables' duty relating to Jurors, see pages 29, 30.

one, or more than two for every hundred persons in such town, computing by the last census, which may have been taken, next before preparing such Jury box; and if the Selectmen of any town shall fail to comply with the requisitions of this act, or the act to which this is in addition, or shall in any way offend against the provisions of either of said acts, every such Selectman, shall forfeit and pay for each and every such neglect or offence, a sum not less than ten dollars nor more than fifty dollars, to be recovered by indictment in the Supreme Judicial Court. *ch. 214, s. 2.*

3. Having written their names upon tickets, they shall cause them to be placed in the Jury box, and shall then lay the whole of their doings before the town for a revision, who may confirm the same, or make such alteration therein as they may deem proper: and the said box shall be held and kept by the town Clerk; and the persons whose names shall be continued in said box, shall be liable to be drawn, and serve on any Jury, at any Court for which they may be drawn, once in every three years, and not oftener. *ch. 84, s. 1.*

4. Whenever it shall happen that all those persons whose names are in the Jury box of any town, shall have served on the Jury within three years, it shall be the duty of the Selectmen of such town to cause to be drawn according to law, such number of men as may at any time be required: *Provided*, they shall not have served as Jurors within eighteen months; and in such case the Town Clerk shall certify upon the venire, that all the persons whose names are contained in the Jury box of such town, have served upon the Jury within three years.* *ch. 214, s. 1.*

5. If any person whose name shall be in the box aforesaid, shall be convicted of any scandalous crime, or be guilty of any gross immorality, his name shall be withdrawn from the box by the Selectmen. *ch. 84, s. 3.*

6. It shall be the duty of the several towns, to provide and have constantly kept in said box, ready to be drawn when required, a number of Jurors, not less than one, and not more than two, for every hundred persons, which said town may contain, computing by the last census which may have been taken, next before the preparing the box. *s. 2.*

* It is the practice of the Supreme Court, in cases where the same persons have been returned as Jurors oftener than the law provides, to excuse them from serving. The returning of persons oftener than their turn is censurable practice and a violation of the law.

7. When any town shall be duly assembled, in pursuance of *venire facias*, for the purpose of drawing jurymen, the town Clerk, or in his absence one of the Selectmen, shall carry into the meeting the box containing the names of those persons who have been selected to serve as jurymen, at the Court from which the *venire* issued; which box shall be unlocked in the meeting, and the tickets mixed by the major part of the Selectmen, who are to be present; and one of the Selectmen shall draw out as many tickets as there shall be Jurors required by *venire*. *ch. 84, s. 6.*

8. The persons whose names shall be thus drawn shall be returned to serve as Jurors, unless from sickness, absence beyond sea, without the limits, or in different parts of the State, they shall be considered by the town as unable to attend the Court for which they have been drafted; or had served on a Jury within three years from that day. In either of these cases, or in case of a Coroner's being drawn at a time when the duties of a Sheriff shall be devolved on him by reason of a vacancy in that office, the persons' names being returned into the box, others shall be drawn in their stead; but any person being thus excused, or who shall be returned, and shall not appear at Court, or appearing shall be there excused, shall not be considered as serving, or be excused on another draft, should it happen within the term of three years, the minute on ticket notwithstanding. *ib.*

9. The Selectmen who shall draw from the box the ticket of any person to serve as a Juror and who shall not be excused by the town, for either of the causes aforesaid, shall indorse thereon the date of the draft, and then return the same into the box; and whenever there shall be a renewal, or an exchange of any of the tickets in the box, for others, of the same persons, the Selectmen shall transfer from the back of the old tickets to the new ones, the minutes of such drafts as have been made within three preceding years. *s. 7.*

10. The Selectmen, Town, Constable, or Clerk of the town, who having no justifiable cause therefor, shall neglect to discharge the duties incumbent on them, him or it, respectively, by this act, shall be subjected to the respective fines and amercements named, to be assessed, ordered and imposed by the Court, in reference to whose Jurors such neglect or failure may have taken place: namely, a fine not exceeding twenty dollars, at the discretion of the Court, on any Selectmen or Town Clerk, who shall so neglect to perform his or their duty herein prescribed, as by means whereof the Jurors called for from his or their town shall not be

returned : a fine not exceeding eighty dollars, on any town Clerk or Selectman, who shall be guilty of any fraud, either in practising on the Jury box previously to a draft, or in the drawing a Juror, or in returning the name of any Juror into the box, which had been fairly drawn out, and drawing or substituting some other one in his stead, or in any other way whatsoever ; a fine or amercement not exceeding one hundred dollars, at the discretion of the Court, on any town who shall so neglect the duties herein enjoined on it, as thereby to occasion a failure of the Jurors called for from such a town. *ch. 84, s. 20.*

11. All such fines which the Selectmen or Town Clerk, shall incur for any neglect, shall be to the use of the county, to be recovered by indictment, information, or an action brought by the Treasurer of the county : *Provided*, The action shall be brought within twelve months after the offence shall have been committed ; such fines or amercements, as shall be ordered or imposed on towns for any neglect of their duties as before specified, shall be to the use of the county in which the offending town may be ; all fines and forfeitures for any of the frauds, by town Clerks or Selectmen as above mentioned, shall be recovered by action of debt ; one moiety thereof to be and enure to the State, the other moiety to him or them who shall prosecute and recover the same. *ib.*

12. When any person sustaining damages in his lands by their being flowed, shall complain to the Court of Common Pleas and legal notice thereof shall be given to the owner or occupant of the mill complained of, if the owner or occupant notified, shall not appear, or appearing shall not show sufficient cause, the Court in which said complaint may be pending, may issue a warrant to the Sheriff of the same county, or either of his Deputies, directing him to empanel a Jury of twelve good and lawful men ; and the officer to whom the warrant shall be directed, shall in writing require of the Selectmen of the three towns nearest to that in which the land injured is situated, if so many there be within the same county, to return a number of Jurors, (not less than two, nor more than six from any one town,) to serve on the panel ; which Jurors shall be drawn from the Jury box, notified and returned as in other cases, excepting that the town need not be assembled, and that notice to the persons drawn, one day previous to the time appointed for their attendance shall be sufficient. *ch. 45. s. 4.*

L.—Their powers and duties in binding out minors.

§ 1. Minors under the age of fourteen years, may be bound by deed, until that age, as servants or apprentices, by their father; and in case of his decease, by their mother or by their guardian legally appointed: or having no parent or guardian, may bind themselves, with the approbation of the Selectmen or major part of them, of the town where such minors reside. *ch.* 170, s. 1.

2. And all minors of the age of fourteen years or upwards, may be bound by deed as apprentices or servants, females to the age of eighteen years, or to the time of their marriage within that age; and males to the age of twenty-one years, by their father; and in case of his decease, by their mother, or guardian legally appointed, having the minor's consent expressed in the deed: And any such minor's having no father, mother or guardian within the State, may by deed, bind themselves with the approbation of the Selectmen, or the major part of them, of the town where they reside. *ib.*

3. *Provided*, That in every case there shall be two deeds of the same form and tenor, executed by both parties; one to be kept by each and where made by the approbation of the Selectmen, they, after having examined the terms of the deeds, shall express their approbation thereon, and sign the same: *Provided also*, That all considerations which shall be allowed by the master or mistress in any contract of service or apprenticeship, shall be secured to the sole use of the minor thereby engaged. *ib.*

4. All contracts which shall be made by any parent or guardian or by any minor for him or herself pursuant to this Act, shall be good and effectual in law against all parties, and the minor thereby engaged, according to the tenor thereof.* *ib.*

5. It shall be the right and duty of parents and guardians and of Selectmen for the time being, binding minors as aforesaid, to inquire into their usage and defend them from the cruelties, neglects or breach of covenant of their masters or mistresses; and such parents, guardians or Selectmen, for the time being, may complain to the Court of Common Pleas in the county whereof such master or mistress is an inhabitant, against him or her for any personal cruelty,

* When covenant void by death of master, minor may be bound out anew in the same manner. s. 2.

neglect or breach of covenant: if such complaint shall not be supported, the Court shall award costs to the respondent against the parent, guardian or Selectmen where the complaint of the Selectmen shall be without probable cause, and execution accordingly.* *ch. 170, s. 3.*

M.—Selectmen, with the town Clerk and Treasurer, made Trustees of the Ministerial and School lands.

§ 1. The Selectmen, Town Clerk and Treasurer, for the time being, of every town in the State, wherein no other Trustees for the same purpose are already by law appointed, shall be, and they hereby are constituted and declared to be a body corporate, and trustees of the Ministerial and School funds in such towns forever; with power to prosecute and defend suits at law; to have a common seal and to change the same at pleasure; to make any by-laws for the management of their affairs, not repugnant to the laws of the State; and with all the other powers heretofore granted or incident by law to such corporations. And said Trustees shall annually elect a President, Clerk and Treasurer; and the Treasurer shall give bond, with sufficient sureties, in the opinion of the trustees, for the faithful discharge of his trust, and the Clerk shall be sworn to the faithful performance of his duty. *ch. 254, s. 2.*

2. Said Trustees shall have power to sell and convey all the ministerial and school lands belonging to their respective towns, lying within the same, excepting such parts as may have been already vested in the manner described in the first section of this Act. And any deed duly executed by the Treasurer of said Board, by direction of said Trustees, shall be good and effectual in law, to pass the estate described in such deed of conveyance. And the proceeds of such sale shall be, as soon as may be, put at interest by said Trustees, and secured by mortgage of real estate to double the value

* If minor be discharged by Court, he may be bound out anew in same manner. *s. 3.*

On complaint to C. C. Pleas, on account of gross misbehaviour of apprentice; Selectmen, where they shall approve as aforesaid, should be duly notified. Minor if discharged, may be bound out anew in same manner. *s. 4.*

of the amount at interest ; or by bond or note, with sufficient sureties, or invested in Bank stock, or public securities. *ch. 254, s. 3.*

3. And said Trustees are further empowered to take, hold and possess any estate, real or personal, by gift, grant or otherwise, for the use of the ministry in their several towns, the yearly income whereof shall not exceed one thousand dollars ; and to take, hold and possess any estate, real or personal, by gift, grant or otherwise, for the support of schools in their several towns, the yearly income whereof shall not exceed the sums their respective towns are obliged by law to raise for the support of schools therein. *ib.*

4. And said Trustees are further authorized with the consent of their respective towns, at a legal meeting called for that purpose, to lease such lands or real estate, or any parts or parcels thereof, on such terms and conditions as said towns may prescribe, the rents and profits to be applied to the uses herein prescribed. *ib.*

5. The annual rents and profits of said lands granted or reserved for the use of the ministry, and the interest accruing from the moneys arising from the sale of the same, or from leases thereof ; and the rents, profits and income of the estate, real or personal, taken, holden and possessed by gift, grant or otherwise, for the use of the ministry as aforesaid shall be annually apportioned among and paid to, the several regular Gospel ministers who may officiate to the several parishes or religious societies, having their places of public worship fixed within said town or parish, and producing certificates of their officiating as aforesaid, from the Clerks of such parishes or societies, in proportion to the number of rateable polls in said parishes or societies, who may be resident within such town, on the first day of May annually, to be ascertained by a list of such members, to be made out and certified by the Clerk of such parish or religious society, and delivered to the Town Clerk in the month of May annually ; and in default of such list so made out, certified and delivered as aforesaid, the minister of such parish or society shall receive no part of such income or interest that year. And all moneys not demanded by any such minister before the day of the annual meeting for the choice of town officers, shall be added to, and become a part of, the principal fund aforesaid. And the annual rents and profits of said school lands, if leased as aforesaid, as well as the interest accruing from the moneys arising from the sale thereof, according to the provisions aforesaid ; and

the rents, profits and income of the estate, real or personal, taken, holden or possessed by gift, grant or otherwise, for the support of schools as aforesaid, shall be annually apportioned among, and expended in, the several school districts in each town, according to the number of scholars contained in each district, between the ages of four years and of twenty-one years. *ch. 254, s. 4.*

6. Said Trustees shall at each annual meeting of their respective towns for the choice of town officers, exhibit a fair account of their proceedings, and a statement of the funds, and receipts and expenditures thereon, and of the application thereof to the several uses hereby required. *s. 5.*

7. In all cases where lands have become vested in any parish in this State, the Assessors, Clerk and Treasurer of such parish for the time being, where no other Trustees for the same purpose are already by law appointed, shall be and they hereby are constituted and declared to be a body corporate, and Trustees of the ministerial funds in such parish forever; with the same powers, under the same restrictions, and subject to the same liabilities in selling such ministerial lands, and managing the proceeds thereof in the same manner as the Selectmen, Treasurer and Clerk of towns; and the said Trustees shall pay the annual rents and profits of said ministerial lands, and the interest accruing from the sale of the same, or from leases thereof, to the ministers of such parish yearly; and shall at each annual meeting for the choice of parish officers, exhibit to the parish a fair account of their proceedings and a statement of the funds, receipts and expenditures thereon. *s. 6.*

8. And any one of the Trustees hereby created, may call the first meeting of said Board by giving personal notice to all the others, of the time and place of meeting, seven days at least prior to said meeting. *s. 7.*

9. The Trustees of any ministerial fund incorporated by the Legislature of Massachusetts, in any town within this State are authorized with the consent of the town for whose benefit such fund was established, to surrender and transfer said fund to the Selectmen, Town Clerk and Treasurer of such town; and said town officers shall be made, *ex officio*, the Trustees of the fund aforesaid; and after such transfer, the annual income of said fund shall be applied to the support of primary schools in such town. *ch. 568, s. 1.*

10. The income of any fund, which has arisen or may arise from the proceeds of the sale of lands reserved for the

use of the ministry, or the first settled minister, in any town in this State, and which fund, or the land from which it may arise, has not become vested in some particular parish within such town; or in some individual, is hereby directed and required to be annually applied to the support of primary schools in such town. *ch.* 568, *s.* 2.

11. The income of the funds aforesaid shall be expended for the benefit of schools, in the same manner that other money raised for the support of schools, in the several towns in this State, is by law required to be expended. But this act shall not be construed to exempt any town from raising for the use of schools, the same sum of money, beyond the income of the fund aforesaid, that it is now by law required to raise for that purpose. *s.* 3.

N.—Their power respecting shows and exhibitions.

§ 1. From and after the passing of this act, no person shall presume to exhibit any images, pageantry, sleight-of-hand tricks, puppet show or circus, within any town or plantation in this State, for money, without having first obtained a license or permit therefor, in writing, from the Selectmen of the town or Assessors of the plantation in which such exhibition may be intended, signifying their approbation of the same: And every person violating the provisions aforesaid, shall forfeit and pay for each offence a sum not less than ten nor more than one hundred dollars, to be recovered by action of debt, to the use of the poor of the town or plantation where the offence is committed. *ch.* 266, *s.* 1.

2. Where the Selectmen of towns or Assessors of plantations shall grant permission to exhibit such images, pageantry, or other exhibitions mentioned in the first section of this act, the person or persons so exhibiting such shows, pageantry or tricks, mentioned as aforesaid, shall pay, for each such exhibition or performance, twenty-four hours being allowed for each exhibition or performance, a sum not less than five, nor more than ten dollars, at the discretion of said Selectmen or Assessors; and for each and every subsequent exhibition or performance, in the same town or plantation, a sum not less than two nor more than five dollars to the use of the poor thereof: *Provided however*, 'That nothing in this Act shall be construed to affect a well regulated and permanently established Museum. *a.* 2.

3. If any person or persons shall, for money or any other valuable article, in any city, town or plantation in this State, exhibit any living animal or collection of animals, or exhibit any feats of balancing, wire dancing, personal agility, sleight or dexterity, without having first obtained license therefor, in manner hereinafter specified, the person or persons so offending shall pay a fine for every such offence not exceeding one hundred dollars and not less than ten dollars to be recovered by action of debt in the name of the overseers of the poor and for the use of the poor of the city, town or plantation, wherein the same may have been committed. *Stat. 1833, ch. 23, s. 1.*

4. The Selectmen of any town, Assessors of any plantation or Mayor of any city, may grant license for any of the foregoing exhibitions, or performances to be had therein, on receiving for the use thereof a sum such as they may judge suitable, not being less than five dollars for every such exhibition or performance, twenty-four hours being allowed for the same. *Provided*, That the provisions of this act shall not be construed to extend to any permanently established Museum or Theatre. *s. 2.*

5. It shall be the duty of the Selectmen, Assessors and Mayor to prosecute for any fine or penalty for the violation of the provisions of this act, and the act to which this is additional, before any Court of competent jurisdiction. All fines to be paid into the treasury of the town, &c. for the use of the same. *s. 3.*

NOTE.

The following is a summary of the Inspection Laws of this State so far as the duties of Town Officers are involved.

Inspectors of pickled fish, and smoked alewives and herrings, shall give bond with sufficient sureties to town or plantation Treasurers, in the penal sum of not less than \$500 nor more than \$1000, for the faithful performance of the duties of their office. And the Selectmen of towns, and Assessors of plantations in which such inspectors shall be appointed, shall annually examine the bonds, and if the bond of any inspector shall by them be considered insufficient, they shall forthwith notify such inspector of the same, and if any inspector shall for thirty days after notice, neglect to give bond as aforesaid to the satisfaction of such Selectmen or Assessors, it shall be their duty to give information thereof to the Governor, who shall remove such inspector and appoint some other person to such office. ch. 150, s. 1.

Inspectors of Stone lime and lime casks.—The Selectmen of each town in which stone lime is manufactured, except the towns of

Thomaston, Camden and Warren, shall appoint one or more inspectors of stone lime and lime casks within and for such town, to be by them removable at pleasure, upon misbehaviour in said office; and each inspector thus appointed by the Selectmen, shall, before he enters upon the duties of his office, be sworn faithfully to perform the same, and shall give bonds, with sufficient sureties to the Treasurer of such town, in the sum of five hundred dollars, conditioned for the faithful performance of the duties of his office. *ch. 156, s. 4.*

Shellfish.—The major part of the Selectmen, of any town wherein oyster beds shall be, may give permits in writing, to any person to take oysters from their beds, at such times, in such quantities and for such uses, as they shall think reasonable, and express in their permit; *Provided*, any inhabitant without such permit, may take oysters from their beds for the use of his or her family, from the first day of September to the first day of June annually.

Penalty for taking away or destroying oysters without permit, 2 dollars for every bushel including shells. *ch. 179, s. 2.*

The major part of the Selectmen of towns bordering on any harbour, creek, salt water river, bay or inlet, may give permits in writing to any person to take other shellfish from their beds in their said towns at such times, in such quantities, and for such uses as they shall deem reasonable, and express in their permit: *Provided*, every inhabitant without such permit may take such other shellfish from their beds therein for the use of his or her family: and nothing in this act shall deprive native Indians of the privilege of digging shellfish for their own consumption, or prevent any fisherman from taking shellfish for bait, not to exceed seven bushels, including their shells, at any one time. *s. 3.*

Penalty for taking or destroying such other shellfish, except by permission, one dollar for every bushel including shells.

Weighers of Beef.—It shall be the duty of the Selectmen of every town where beef cattle are sold for the purpose of market, or barrelling, to appoint one or more person or persons not being dealers in cattle, and conveniently situated in such town, to be weigher or weighers of beef, who shall be sworn to the faithful discharge of the duties of their office. *ch. 148, s. 22.*

Onions.—The Selectmen of each town where onions shall be shipped, are hereby authorized and directed to appoint some suitable person or persons to weigh the same and give certificates of the weight; which person or persons so appointed shall be sworn to the faithful performance of his or their duty, and shall receive as fees, ten cents for every hundred bunches so weighed and certified for any quantity not exceeding five hundred bunches, and five cents for a greater quantity, said fees to be paid by the purchaser. *ch. 154, s. 12.*

If any person or persons shall presume to expose for sale within this State, any onions in bunches, without first having them weighed as aforesaid, and having obtained a certificate of the same, he shall forfeit the same; one moiety thereof to and for the use of the poor of the town where they may be exposed to sale, the other moiety to him or them who shall inform of the same; and the Selectmen of such town, or the major part of them, are hereby authorized and empowered to seize the same, and sell them at public auction, and to account with the Overseers of the poor of such towns for the nett proceeds of one moiety thereof, and the other to said informant. *s. 13.*

Boats and Lighters.—It shall be the duty of the Selectmen in any town where boats and lighters are owned, which may be employed in transporting stones, gravel or sand, to appoint annually in the month of April or May, some suitable person to ascertain the capacities of all

such boats and lighters, and mark the same as is prescribed in this Act; who shall be under oath faithfully to perform the duty as herein prescribed. *ch.* 173, *s.* 2.

The Selectmen of towns in which boats or lighters used for the aforesaid purposes, are owned, are hereby empowered, and it shall be their duty to regulate the amount of fees which may be demanded by the inspector of boats and lighters, of the owners thereof, for the performance of the duties imposed upon him by law. *s.* 4.

Coal.—The Selectmen of any town, where coal is usually sold, shall have power to appoint, as occasion may require, some suitable person to seize and secure all baskets improved for measuring coal, that shall not contain two bushels, and be of the following dimensions, to wit: nineteen inches in breadth in every part thereof, and seventeen inches and a half deep, measuring from the top of the basket to the highest part of the bottom; and also be sealed by the sealer of the town where the person as using the same, shall usually inhabit or reside. *ch.* 160, *s.* 7, 8.

Hawkers, &c.—Selectmen may require persons licensed to sell tin ware, to exhibit certificate of such license; forfeiture for disobedience, \$10. *ch.* 171, *s.* 3.

Inspectors of Sole Leather.—In each town where the inhabitants or Selectmen shall judge the same to be necessary and an occasion may require, the selectmen shall appoint one or more suitable persons, conveniently situated in the town, to be inspectors of sole leather, which inspector or inspectors shall be sworn (or affirmed, as the case may be) to the faithful discharge of their official duties, and shall receive such fees or allowance for their services as the Selectmen deem proper, to be paid by the person requesting the inspection, and when paid by the owner thereof it shall always be considered a legal charge to be paid by the purchaser to the vendor. *ch.* 436, *s.* 1.

T O W N S.

A.—Organization of towns, and opening town meetings in absence of certain town officers.

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| <ol style="list-style-type: none"> 1. Towns not organized or destitute of proper officers may be organized by Justice of the Peace. 2. The Justice or person appointed by him may preside at the opening of the meeting. | <ol style="list-style-type: none"> 3. Provision for opening town or plantation meeting, when Clerk, &c. absent. 4. Presiding officer may administer oath to the Clerk, <i>pro tempore</i>. 5. Duty of such Clerk. |
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B.—The power of towns to prosecute and defend actions ;

Service of legal process upon towns ;

Competency of inhabitants as witnesses in suits affecting their towns.

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| <ol style="list-style-type: none"> 1. Towns declared bodies politic ; 2. May prosecute and defend actions. 3. Appointment of Attorney and how proved. | <ol style="list-style-type: none"> 2. Process against them, how to be served ; 3. Inhabitants are competent witnesses, unless, &c. |
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C.—Their power, and purposes for which to raise moneys, and to make by-laws.

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| <ol style="list-style-type: none"> 1. General purposes for which towns may raise money. 2. They may make by-laws with approbation of Court of Sessions. 3. May raise money for making and repairing bridges not exceeding State tax. | <ol style="list-style-type: none"> 4. Of 400 inhabitants may raise money to make and repair roads. 5. May raise money to pay hired watch. 6. Selectmen, &c. to employ and regulate watch. |
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D.—Their power to choose Senators and Representatives in the Legislature.

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| <ol style="list-style-type: none"> 1. Apportionment of Representatives among towns and districts. | <ol style="list-style-type: none"> 2. Election of Senators. |
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E.—Their duty to provide for the protection of grave yards.

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| <p>§ 1. Towns, parishes, &c. to cause burying yards to be fenced.</p> <p>2. Penalty for neglect.</p> <p>3. Selectmen, &c. to apply such fine; liability for neglect.</p> <p>4. Persons may become incorpo-</p> | <p>rated to purchase burying grounds.</p> <p>5. Corporations to fence grave yards.</p> <p>6. Penalty for neglect to be expended by Selectmen.</p> |
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F.—Power and duty of towns to erect guide posts; Their liability for neglect of such duty.

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| <p>§ 1. Duty to erect guide posts.</p> <p>2. Authority of Selectmen and Assessors.</p> <p>3. Manner of construction.</p> <p>ib. May agree upon substitute.</p> <p>4. Penalties for neglect.</p> <p>5. Penalty for injuring guide posts.</p> | <p>6. Temporary monuments to be placed at every angle of roads when located, and stone posts by Selectmen when established.</p> <p>7. Penalty for neglect.</p> <p>8. Penalty for defacing such posts, &c.</p> |
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G.—Their duty to maintain pounds, and to appoint pound keepers.

H.—The duty of towns to provide persons to keep ferries.

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| <p>§ 1. In what cases towns are to provide ferrymen.</p> <p>2. Towns on opposite sides of a</p> | <p>river to provide jointly or alternately.</p> <p>3. Forfeiture for neglect.</p> |
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I.—The obligation of towns to indemnify individuals, whose estates are taken for neglect of Assessors.

A.—Organization of towns, and opening town meetings in absence of certain officers.

§ 1. In any town, not organized by the choice of town officers, or in any town which may have been so organized, but shall be destitute of town officers, qualified to call town meetings, any Justice of the Peace, for the county in which said town shall be, may, on application, made to him in writing, by five or more of the inhabitants of such town, qualified to vote in town affairs, issue his warrant, to some one of such applicants, directing him, that, in manner

by law prescribed for notifying town meetings, he notify the inhabitants of such town, qualified as aforesaid, to meet at such time and place as may be in such warrant appointed, for the choice of such town officers as towns are by law entitled to elect. *ch.* 338.

2. Whenever it may become necessary to call a meeting of any corporation by application to a Justice of the Peace, and he shall issue his warrant thereon, it shall be lawful for the person to whom the warrant is directed, or for the Justice, to call the meeting to order, and to preside therein; and he shall have the same authority as is given by law to Moderators in town meetings, until a Moderator is elected; *Provided*, the person so organizing and presiding shall not be responsible for any error in judgment, concerning the legal qualifications of any person claiming the right to vote at such meeting. *ch.* 439.

3. Whenever the Clerk of any town or plantation may be absent from any town or plantation meeting duly called, either of the Selectmen of such town, or the Assessors of such plantation, and in the absence of the Selectmen or Assessors as aforesaid, either of the Constables of such town or plantation may do all the duties of a town or plantation Clerk, in opening said meeting, and in receiving, sorting and counting the votes for a moderator, and until a town or plantation Clerk *pro tempore* shall be chosen. *ch.* 260, *s.* 1.

4. When the Clerk of any town or plantation may be absent from any town or plantation meeting as aforesaid, the moderator chosen in conformity with the provisions of the first section of this act, shall require the inhabitants of such town or plantation to give in their votes, by ballot for a Clerk *pro tempore*; and the moderator, after the choice of a Clerk thus made, shall be, and hereby is authorized to administer the oath to such Clerk *pro tempore*;—*Provided*, no Justice of the Peace be present. *s.* 2.

5. Such Clerk *pro tempore* shall record the whole proceedings of such meeting, and shall be liable for any misfeasance or breach of duty or trust in the same manner as the regular town or plantation Clerk is by law required to do or suffer. *ib.*

B.—The power of towns to prosecute and defend actions.

Service of legal process upon towns.

Competency of inhabitants as witnesses in suits affecting their towns.

§ 1. The inhabitants of every town within this State, are hereby declared to be a body politic and corporate ; and as such may commence and prosecute any suit or action in any Court proper to try the same ; and may also defend any suit or action commenced against them ; and for this purpose the said inhabitants qualified and convened in manner aforesaid, may nominate and appoint one or more agents or attorneys. The choice of the agent or attorney, certified by the town Clerk, shall be deemed and taken sufficient evidence of such appointment. *ch. 114, s. 7.*

2. When any suit shall be commenced against any town, a copy of the writ or original summons, or such other legal process as may issue against them, shall be left with the Clerk of such town, or with one of the Selectmen, thirty days at least before the day of the sitting of the Court, unto which the same shall be returnable. *id.*

3. In all suits at law whether of a civil or criminal nature, now depending, or that hereafter may be depending in any Court, or before any Justice of the Peace, within this State, wherein any county, town, public corporation, charitable, religious or literary incorporated society, is or may be a party, or interested in the event of the suit, any inhabitant of such county or town or member of such other incorporated society, shall and may be admitted as a competent witness ; and his deposition may be used, if duly taken, and for legal cause, in the trial of the cause as well for as against such county, town or other corporation ; *Provided*, He hath no other interest therein, than as an inhabitant or member of such county, town or other corporation, and is not otherwise legally disqualified ; any law, usage or custom to the contrary notwithstanding. *ch. 87.*

—Their power and purposes for which to raise moneys, and to make by-laws.

§ 1. The citizens of any town, qualified as aforesaid,* the annual meeting for the choice of town officers, or at any other town meeting, regularly warned, may grant and to such sum or sums of money as they shall judge necessary for the settlement, maintenance and support of the ministry, schools, the poor, and other necessary charges, arising within the same town, to be assessed upon the polls and property within the same, as by law provided. *ch. 114, s. 1.*

2. They are also hereby empowered to make and agree on such necessary rules, orders and by-laws; for the directing, managing and ordering the prudential affairs of such town, as they shall judge most conducive to the peace, welfare and good order thereof; and to annex penalties for the servance of the same not exceeding five dollars for one offence, to enure to such uses as they shall therein direct: *provided*, They be not repugnant to the general laws of this state: *And provided also*, Such orders and by-laws shall have the approbation of the Court of Sessions of the same county. *s. 6.*

3. The several towns and plantations in this State, may at their annual meeting in March or April, vote and raise money necessary for the purchase of materials for making or repairing any bridge or bridges in such town or plantation, not exceeding in any one year the amount of the State tax required of them, to be assessed and collected as other town and plantation taxes are and to be expended under the direction of the Selectmen and Assessors respectively. *ch. 119, s. 4.*

4. Any town in this State, having a population of four hundred inhabitants, may at any legal meeting of its inhabitants vote to raise such sum of money to be expended in making and repairing its public roads, as they may think necessary; and may by vote of said inhabitants, if they see

* For the qualifications referred to, see Elections.

† The several towns and plantations in this State may at their annual meetings in March or April, vote to raise money necessary for purchasing land or a place for a public burying ground in such town or plantation, and for suitably fencing in the same; to be assessed and collected as other town and plantation taxes are by law to be assessed and collected, and to be expended under the direction of the Selectmen of towns and Assessors of plantations, respectively. *ch. 652.*

fit, direct the same to be assessed upon the polls and estate and collected in the same manner as other cash taxes are assessed, and collected. *ch. 539, s. 1.*

5. Whenever any town shall at their annual meeting, be for the choice of town officers, determine that it will be for the benefit and safety of the inhabitants of such town to employ a hired Watch, it shall be lawful for the town, at such meeting, to raise money to defray the expense of such Watch, and the sum thus voted shall be apportioned and assessed upon the polls and estates within the town, in the same way and manner as moneys are assessed for other town purposes. *ch. 434, s. 1.*

6. It shall be the duty of the Selectmen, Assessors and Town Clerks of the towns in which money shall be raised for the support of a hired Watch, to employ suitable persons as Watchmen, to determine on the number each night, and fix on the regulation of the same, and discharge without pay, such as neglect their duty, or misconduct while on duty. *s. 2.*

7. And they shall appoint a captain of the Watch for the night, who shall be furnished with a warrant, signed by one of the Selectmen, and attested by the town Clerk, describing their duty generally as is provided by the act to which this is additional, and such further instructions as are not inconsistent with the laws of the State, as to the said Selectmen, Assessors and town Clerk, may be deemed necessary for the peace and safety of the town. And the Watch thus established shall, in relation to the duty required of it have the authority which by law is vested in a Constable's Watch *ib.*

D.—Their power to choose Representatives and Senators in the Legislature.*

§ 1. Each town having fifteen hundred inhabitants may elect one Representative; each town having three thousand seven hundred and fifty, may elect two; each town having six thousand seven hundred and fifty, may elect three; each town having ten thousand five hundred, may elect four; each town having fifteen thousand, may elect five; each town having twenty thousand two hundred and fifty, may elect

* For proceedings relating to Elections—see Elections.

six ; each town having twenty-six thousand two hundred and fifty inhabitants may elect seven ; but no town shall ever be entitled to more than seven Representatives ; and towns and plantations duly organized, not having fifteen hundred inhabitants, shall be classed, as conveniently as may be, into districts containing that number, and so as not to divide towns ; and each such district may elect one Representative ; and when on this apportionment the number of Representatives shall be two hundred, a different apportionment shall take place upon the above principle ; and, in case the fifteen hundred shall be too large or too small to apportion all the Representatives to any county, it shall be so increased or diminished as to give the number of Representatives, according to the above rule and proportion ; and whenever any town or towns, plantation or plantations not entitled to elect a Representative shall determine against a classification with any other town or plantation, the Legislature may, at each apportionment of Representatives, on the application of such town or plantation, authorize it to elect a Representative for such portion of time and such periods, as shall be equal to its portion of representation : and the right of representation, so established, shall not be altered until the next general apportionment. *Const. art. iv. p. 1.*

2. The Senate shall consist of not less than twenty, nor more than thirty-one members, elected at the same time, and for the same term, as the Representatives, by the qualified electors of the districts, into which the State shall from time to time be divided. *ib. 2.*

E.—Their duty to provide for the protection of Grave Yards.

§ 1. Within one year after the passage of this Act, (February 25, 1828,) each incorporated Town, Parish or Religious Society, in this State, to which any ancient or public burying yard belongs, shall make a good, substantial and durable fence around the same, and at all times thereafter, keep such fence in good and sufficient repair. *ch. 405, s. 1.*

2. In case such Town, Parish or Religious Society shall refuse or neglect to erect such fence within two years from the passage of this act, and keep the same in repair thereafter, such Town, Parish or Religious Society shall forfeit and pay a fine of one hundred dollars, to be recovered by

indictment in any court proper to try the same, and to be laid out and expended in erecting such fence. *ch. 405, s. 1.*

3. The Selectmen of any town or the committee or Treasurer of any Parish or Religious Society, which shall be indicted or fined as aforesaid, shall receive and faithfully apply the sum which such Town, Parish or Religious Society may pay by virtue of this act. And in case such Selectmen, Committee or Treasurer shall refuse or neglect to apply such fine in manner aforesaid, they shall severally be liable to pay the full amount of such fine, to be recovered by action of debt in any Court proper to try the same, to the use of any person who may sue for the same. *s. 2.*

4. Any persons twenty-one years of age, may, by applying to a Justice of the Peace become incorporated as a body politic for the purpose of purchasing land for a burying ground, and making and repairing the fences enclosing the same. *ch. 420, s. 1.*

5. Every such body politic within one year after its organization shall make a good, substantial and durable fence around the burying ground belonging to it, and keep the same, at all times thereafter, in good and sufficient repair. *s. 2.*

6. Every such body politic, which shall refuse or neglect to erect such fence and keep the same in repair thereafter, shall forfeit one hundred dollars to be recovered by indictment, to be laid out and expended under the direction of the Selectmen of the town in which said burying ground is situated, in erecting and repairing such fence; and the duties and liabilities of such Selectmen in relation thereto shall be the same as are provided by the second section of an act, &c. passed Feb. 25, 1828. *s. 2.*

F.—Power and duty of towns to erect guide posts; Their liability for neglect of such duty.

§ 1. It shall be the duty of the inhabitants of the several towns in this State, and also such plantations as are assessed in any public tax, to provide, erect and keep in repair such guide posts upon all public roads, at such places, and in such manner, as is hereafter in this Act provided. *ch. 120, s. 1.*

2. The Selectmen of the several towns, and the Assessors of all plantations, assessed in any public tax, in this

State, be and they hereby are authorized and required from time to time to fix and determine upon such places at the corners and angles of all roads in the several towns and plantations aforesaid, at which the said guide posts shall be erected and kept, as in their judgment shall be found necessary and convenient, and shall cause a fair record thereof to be entered and kept among the records of the said towns or plantations. *ch. 120, s. 2.*

3. The guide posts to be erected and kept in pursuance of this Act, shall be constructed in manner following, that is to say; there shall be erected at the several corners or angles of the roads aforesaid, at such places as shall be ordered by the Selectmen of towns, or Assessors of the plantations aforesaid, a substantial post of not less than eight feet in height, upon the upper end of which shall be placed a board or boards, upon each of which boards shall be plainly and legibly painted the name of the next town, with such other noted town and place, as may be judged most expedient for the direction of travellers, to which each of the roads may lead, together with the distance or number of miles to the same; and also the figure of a hand with the forefinger thereof pointing towards the town or place to which the said roads may lead: *Provided nevertheless*, That the inhabitants of the several towns and plantations aforesaid, duly qualified to vote in town or plantation affairs, may if they judge fit, annually agree upon some suitable substitute in the room of said guide posts, and appoint any proper person or persons to superintend the erecting the same. *s. 3.*

4. If the inhabitants of any of the towns or plantations aforesaid shall neglect or refuse to erect and maintain said guide posts in such places and in such manner as is herein provided, the said inhabitants shall forfeit and pay, to the use of the State, five dollars for every month which they shall so neglect or refuse: And if the Selectmen of the several towns or Assessors of the several plantations aforesaid, shall neglect or refuse to fix and determine upon any places in the towns and plantations aforesaid, at which the said guide posts shall be erected and kept, by the time in this Act set and limited, the said Selectmen or Assessors shall forfeit and pay, to the use of the State, five dollars for every month which they shall so neglect or refuse; said penalties and forfeitures to be recovered by indictment of the Grand Jury in the county where the offence may be committed. *s. 4.*

5. If any person shall injure, mar or deface any guide post, or its substitute agreed upon as aforesaid, or board which shall be set up, as is in this Act provided, and be convicted thereof before any Justice of the Peace within this State, such person so convicted, shall forfeit a sum not more than six dollars nor less than two dollars; one half to the complainant, and the other half to the use of the town or plantation in which such guide post or its substitute, so injured, marred or defaced was set up, and shall pay all costs of the prosecution. *ch. 120, s. 5.*

6. Whenever any public highway is located in any town by order of the Court of Sessions, it is the duty of the persons locating the same to place temporary monuments at every angle, on one of the exterior lines of said highway; and whenever any such highway is established, it shall be the duty of the Selectmen of the towns in which the same may be, within six months from the time it is so established to procure and set up at every angle aforesaid, stone posts, not less than ~~one~~ feet in length, marked with the letter R. and the Selectmen of said towns for the time being, shall cause said posts to be kept up and maintained so long as said highway shall continue as a public highway; *Provided*, That when any such highway shall pass over any ledge, so that the posts cannot be erected, it shall be the duty of the said Selectmen to mark at every angle on said ledge, the letter R. *ch. 399, s. 1.*

7. If the Selectmen of any town neglect to cause said posts to be set up or to mark said angle on such ledge, for the period of twelve months aforesaid they shall forfeit five dollars; and for each month thereafter which they so neglect shall forfeit one dollar, said forfeitures to be sued for and recovered in an action of debt by any person who may sue for the same; one half thereof to his own use and the residue to the use of the town in which said highway is located. *s. 2.*

8. If any person shall throw down, remove or deface said posts, or shall erase or deface the angular marks aforesaid, or aid and assist in so doing, the person or persons so offending shall be liable to all the penalties provided by law for injuries done to mile stones to be prosecuted for and recovered in the same manner and to the same uses. *s. 3.*

G.—Their duty to maintain pounds, and to appoint pound keepers.

Each town shall keep and maintain a sufficient pound or pounds, in such place or places therein as the town shall direct; and every town that shall neglect, for the space of six months, to provide and maintain such a pound, shall forfeit and pay a sum of not less than fifty dollars nor more than one hundred for the use of the town, to be recovered by presentment of the Grand Jury in the District Court in the county; and there shall be chosen annually in each town a suitable person to keep each pound, who shall be sworn to the faithful discharge of his duty. *ch. 659, s. 1 & 4.*

H.—The duty of towns to provide persons to keep ferries.

§ 1. Whenever the Court of Sessions of any County in this State, shall judge it necessary to set up a ferry for the convenience of passing any river or waters, and no person shall appear to keep the same for the stated profits thereof, the town wherein such ferry may be, shall take effectual care to provide some suitable person or persons to keep and attend the same at such place, and in such times of the year, as the said Court shall judge necessary. *ch. 176, s. 4.*

2. If any such ferry so judged necessary, shall be over any river or water when one town joins thereto on one side, and another town on the other side; in such case the said towns shall either jointly or alternately, provide such person or persons to keep such ferry as the said Court shall order. *s. 5.*

3. Any town neglecting to provide suitable persons to keep ferries as aforesaid, shall forfeit and pay forty dollars for each month's neglect, one moiety thereof to the use of the State, and the other moiety to him or them who shall inform and sue for the same; to be recovered in an action of debt, with costs of suit. *s. 6.*

**I.—The obligation of towns to indemnify individuals,
whose estates are taken for neglect of Assessors.**

If the estate of any inhabitant or inhabitants (not being an Assessor or Assessors of any town or plantation) shall be levied upon and taken as directed in the twenty-second section of this Act, (See Treasurer, D. s. 3.) he or they shall have an action or actions against the town or plantation, to recover the full value of the estate so levied upon and taken, with interest thereon, computed at the rate of twelve per centum per annum, from the time the said estate was taken, with legal costs of suit: and at the trial, the plaintiff or plaintiffs shall be admitted to prove the real and true value of the estate so taken, at the time the same was levied upon.

ch. 116, s. 63.

TREASURERS.

A.—Treasurers to give Bonds.

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| §1. Selectmen, &c. may require Treasurer to give bonds. | 3. To render account of the finances of the town when requested. |
| 2. Refusing, town to make new choice. | |

B.—Power of Treasurers to commence and prosecute suits.

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| §1. Treasurers may sue and prosecute actions on securities given to them of their predecessors. | 2. They may sue for damages done to buildings or property. |
| | 3. Justices to account annually to Treasurers. |

C.—Their duty to distribute warrants of assessment.

D.—Their power and duty to issue warrants of distress in cases of default or negligence.

(a) Warrants against inhabitants of towns and plantations.

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| §1. Warrant on neglect to choose Assessors to assess and certify assessment of State tax. | in office Assessors to assess State or county tax. |
| ib. Officer's duty. | ib. Rules for executing warrant. |
| ib. Final process, how prevented. | 3. Where estate of Assessors is insufficient to pay forfeiture. |
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(b) Warrants against Assessors.

(c) Warrants and executions against Collectors.

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| §1. Against Collector, delinquent as to State tax. | 2. Warrant to issue on request, in certain cases: |
| ib. For want of estate, to be committed. | 3. Delinquency as to county, town, plantation and parish rates. |

(d) Warrants against Sheriffs.

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| §1. Sheriff's duty in service of warrants and executions. | 2. Treasurer's warrants on default of Sheriffs. |
| ib. Treasurers may issue alias. | |

(e) As to school district taxes.

(f) Modes of executing warrants of distress and executions.

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| §1. Sale of personal property. | 3. Arrest and commitment of delinquents. |
| 2. Levy on real estate. | |

E.—Their power and duty relative to weights and measures.

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| §1. Treasurers to procure beams, weights and measures, &c. | 3. Duty when more than one assessor chosen. |
| 2. Weights to be sealed every ten years. | 4. Limitation of the act. |

A.—Treasurers to give Bonds.

§ 1. The Selectmen of towns, and the Assessors of plantations, may require the Treasurer of such town or plantation to give bond with sufficient security to the satisfaction of such Selectmen or Assessors, for the faithful performance of the duties of his office.

2. And if said Treasurer shall neglect or refuse to give such bond, it shall be taken as a refusal to accept such office; and such town or plantation shall proceed to make a new choice as in the case of a vacancy in said office. ch. 337, s. 7.

3. It shall be the duty of every such Treasurer to render an account of the state of the finances of his town or plantation, and exhibit all the books and accounts appertaining to his office to the Selectmen of his town, or Assessors of his plantation, as often as once in three months, if requested, and to any committee appointed by such town or plantation for the purpose, whenever they shall require it. s. 7.

B.—Powers of Treasurers to commence and prosecute suits.

§ 1. The Treasurer of this State, the Treasurers of counties, towns, parishes, and other corporations, for the time being, are authorized and empowered, in their own names and capacities, respectively to commence, and prosecute to final judgment and execution, any suit at law upon any bonds, notes or other securities, which have been or shall be given to them or their predecessors in said capacity; and to prosecute to final judgment and execution, any suits which have been or shall be commenced by their predecessors in said capacity during their continuance in office, and pending at the time of their removal therefrom. *ch. 59, s. 26.*

2. When any trespasses shall be committed on any buildings or enclosures belonging to any county, town, or parish, the county, town, and parish treasurer, for the time being, shall be and hereby are severally authorized to sue for the damage done to the public buildings or enclosures of their county, town, or parish respectively; and where any public buildings are owned partly by the town and partly by the county, in that case the county or town Treasurer, whoever may first institute an action, may prosecute for damages thus sustained. And where any public building is owned by any school district, the town Treasurer may sue therefor in manner aforesaid. *ch. 33, s. 4.*

3. Justices of the Peace shall account annually with the Treasurer of the State, the Treasurer of their respective counties, and the town Treasurer (as the case may be,) for all fines by them received or imposed, upon pain of forfeiting the sum of thirty dollars, to be sued for and recovered by the Treasurer of the State, the county or town Treasurer for the time being, to which the said fines may respectively belong. *ch. 76, s. 7.*

C.—Their duty to distribute warrants of assessment.

The Treasurer of this State shall send such warrants as he shall be ordered to issue, for assessing any rate or tax, enclosed to the Sheriff of each respective county, who is required immediately to dispose of and transmit the same unto the Assessors of the several towns and plantations in such county, according to the directions thereof. *ch. 116, s. 4.*

D.—Their power and duty to issue warrants of distress in cases of default or negligence.

(a) Warrants against inhabitants of towns and plantations.

§ 1. If the inhabitants qualified to vote in town affairs, of any town or plantation from which any State tax or taxes now remain due and unassessed, or from which any State or county tax shall be hereafter required, shall neglect, for the space of five months after having received the warrant of the Treasurer for assessing any State tax, to choose Assessors to assess the same, and cause the assessment thereof to be certified as the law requires, to the Treasurer of the State for the time being, and agreeable to his warrant directing the same, he is authorized and directed to issue his warrant under his hand and seal, directed to the Sheriff of the county or his deputy, requiring him to levy and collect, by distress and sale, the sum mentioned therein, of the estates real and personal, of any inhabitant or inhabitants of such deficient town or plantation: which warrant the said Sheriff or his deputy is empowered and required to execute; observing the same rules and regulations as are by law provided for satisfying warrants against deficient collectors of public taxes; and it shall be the duty of said Sheriff or his deputy, on receiving said warrant, forthwith to transmit an attested copy thereof to the Selectmen or Clerk of the town or plantation named therein; and if the Assessors shall within sixty days from the receipt of such attested copy, deliver to the said Sheriff or his deputy, a certificate according to law, of the assessment of the tax or taxes required by said warrant, and pay the officer his legal fees, he shall forthwith transmit the same certificate to the said Treasurer, and return the warrant unsatisfied. *ch. 116, s. 20.*

2. If the inhabitants qualified to vote in town affairs of any town or plantation from which any State or county tax shall hereafter be required, shall neglect to choose and keep in office, Assessors to assess the same as the law requires, the Treasurer of the State, or of the county, for the time being, is hereby authorized and directed to issue his warrant, under his hand and seal, directed to the Sheriff of the county, or his deputy, requiring him to levy and collect the sum mentioned therein in manner aforesaid: And the said Sheriff or his deputy shall execute said warrant, observing

rules and regulations and all the provisions mentioned 20th section of this act. *Ch.* 116, *s.* 21.

If the inhabitants qualified to vote in town affairs, of town or plantation, from which any State tax or taxes remain due and unassessed, or from which any State or town tax shall be hereafter required, shall choose Assessors who shall neglect to assess the tax required by warrant to them, or to re-assess any tax on the failure of any Assessor, and to certify the assessment as the law directs, the estates of such Assessors shall be found insufficient to pay the same tax in the manner already provided; then, in every such case, the Treasurer of the State or the County, for the time being, is hereby authorized and directed to issue his warrant, under his hand and seal, directed to the Sheriff of the county, or his deputy, requiring him to levy and collect by distress and sale, so much of the sum ordered therein, as the estates of the Assessors shall be deficient to pay, of the estates, real or personal, of any inhabitants of the deficient town or plantation; which warrant said Sheriff or his deputy shall execute; observing the rules and regulations, and all the provisions mentioned in the 20th section of this act. *s.* 22.

(b) Warrants against Assessors.

Any Assessors of any town, chosen or appointed, failing to perform their duty required by such warrants as during the time of their office they shall receive from the Treasurer of this State pursuant to any act or acts made and passed by the Legislature, for assessing and apportioning any rate or tax on the inhabitants or estates within the town, whereof they are Assessors, shall forfeit and pay the full sum in such amount mentioned, to be by them assessed, to the use of the town, which shall be levied by distress and sale of the real and personal, of such deficient Assessors, by warrant from the Treasurer, directed to the Sheriff of the county, or his deputy, in which such town files; and the Treasurer is authorized and required in such case, *ex officio* to issue a warrant requiring the sheriff or his deputy to levy said sum accordingly: and for want of estate to take the bodies of such deficient Assessors, and imprison them until they

pay the same ; which warrant the Sheriff or his deputy is empowered and required to execute accordingly.* *ch. 116, s. 5.*

(c) Warrants and executions against Collectors.

§ 1. If any Constable or Collector to whom any tax or assessment shall be committed to collect, shall be remiss and negligent of his duty in not levying and paying unto the Treasurer of this State such sum and sums of money as he shall from time to time have received, and as ought by him to have been paid within the respective times set and limited by the Assessors' warrant pursuant to law, the Treasurer of this State is hereby empowered, after the expiration of the time so set, by warrant under his hand and seal directed to the Sheriff or his deputy, to cause such sum and sums of money to be levied by distress and sale of such deficient Constable or Collector's estate real and personal, returning the overplus if any there be ; and for want of such estate, to take the body of such Constable or Collector and to imprison him until he shall pay the same, which warrant the Sheriff or his deputy is hereby empowered and required to execute accordingly. *ch. 116, s. 41.*

2. Whenever the time fixed by law for collecting any tax shall have expired, the Treasurer of this State shall and he is hereby authorized and empowered, at the request of the Selectmen or Assessors of any town or plantation, to issue his execution against any collector or collectors of their respective towns or plantations without further order. *s. 42.*

3. If the Constable or Collector of any town, plantation or parish within this State, to whom any county, town, plantation or parish rates or assessments shall have been committed to collect, shall be remiss in his duty, by neglecting to collect and pay in the same to the Treasurer of such county, town, plantation or parish, by the time fixed in the warrant to him directed, such Treasurer is empowered to issue his warrant returnable in ninety days under his hand and seal directed to the Sheriff of the county or his deputy (who are hereby respectively directed and empowered to execute the same) to cause such sum or sums of money as

* For proceedings against Assessors for not re-assessing sums which Collectors are deficient, see page 21, s. 10.

For liability of Assessors of plantations, see page 2A.

such Constable or Collector hath not paid in, to be levied by distress and sale of his estate real or personal, returning the overplus, if any there be; and for want of such estate to take the body of such Constable or Collector and him imprison until he pay the same. And the warrant shall be in substance as follows :-

(Seal.) ss. A. B. Treasurer of the of B. in the said
County :—To the Sheriff of the County of or his deputy,
Greeting.

Whereas C. D. of aforesaid [addition] on the day of being a of rates and taxes, granted and agreed on by the aforesaid, had a list of assessments, duly made by the Assessors of the aforesaid, amounting to the sum of committed to him, with a warrant under their hands, directing and empowering him to collect the several sums in the said assessment mentioned, and pay the same to the Treasurer of aforesaid by the day of ; but the said C. D. hath been remiss in his duty by law required, and hath neglected to collect the several sums aforesaid, and pay the same to the Treasurer of the aforesaid; and there still remains due thereof the sum of and the said C. D. still neglects to pay the same; you are hereby, in the name of the State of Maine, required forthwith to levy the aforesaid sum of by distress and sale of the estate, real or personal of the said C. D. and pay the same unto the Treasurer of the said returning the overplus, if any there be, to the said C. D. and for want of such estate to take the body of the said C. D. and him commit to the jail in the County aforesaid, there to remain until he has paid the sum of , with forty cents for this warrant, together with your fees, or that he be otherwise discharged therefrom by order of law: and make return of this warrant to myself or my successor, as Treasurer of the said , within ninety days from this time, with your doings therein. Given under my hand and seal, this day of in the year of our Lord one thousand eight hundred and s. 44.

(d) Warrants against Sheriffs.

§ 1. All executions or warrants of distress, that have been, or may hereafter be issued by the Treasurer of this State or by the Treasurer of any county, town, plantation or parish against any Constable or Collector which hath been or may be hereafter delivered to the Sheriff of any county within this State, or his deputy, such Sheriff or deputy shall make return of his doings thereon unto the Treasurer who issued the same execution or warrant of distress, within a reasonable time after the return day in the same mentioned, with the money, if any, that he hath received and collected by virtue thereof; and where the same shall necessarily be returned *unsatisfied*, or satisfied in part only, such Treasurer may issue an alias for such sum as may remain due on the

return of the first, and so *toties quoties*; which reasonable time after the return day shall be computed at the rate of forty-eight hours for every ten miles distance from the dwellinghouse of the Sheriff or his deputy, to the place where the warrant may be returnable. *ch. 116, s. 45.*

2. Any Sheriff or deputy sheriff, that shall make default in accounting for, and paying in the moneys he may have collected and received of any deficient Constable or Collector, by execution or warrant of distress as aforesaid, or in making return of his doings within reasonable time as aforesaid, shall be liable to pay the whole sum in such execution or warrant of distress mentioned; and the Treasurer of this State, and the Treasurers of the counties, towns, plantations and parishes respectively, are authorized and empowered to make out their warrants respectively, directed to the Coroner of such county, where any Sheriff or his deputy is deficient, requiring them respectively as aforesaid to distrain for the same, upon the estate, real or personal of such deficient Sheriff or his deputy, as is before directed herein, with respect to the Sheriff or his deputy, making distress upon the estate of deficient Constables or Collectors; which warrant the Coroner of any county respectively is hereby empowered and required to execute. *s. 45.*

(e) As to school district taxes.

The Treasurer of any town or plantation, who shall receive a certificate of the assessment of a district tax, shall have the same authority to enforce the collection and payment thereof, as of town or plantation taxes. *ch. 117, s. 10.*

(f) Modes of executing warrants of distress and executions.

§ 1. Any officer who may have occasion to distrain any personal property of any deficient Constable or Collector, by force of any warrant of distress or execution issued by the Treasurer of the State, or by the Treasurer of any county, town, plantation or parish, shall proceed in the sale of said personal property, in the same manner such officer by law

is obliged to proceed in serving executions upon judgments obtained by creditors against their debtors, where personal estate is taken for satisfying the same. *ch. 116, s. 46.*

2. When any execution or warrant of distress issued by the Treasurer of the State, or Treasurer of any county, town, plantation or parish to the Sheriff or his deputy, or to the Coroner, shall be levied on the lands, tenements or hereditaments of any deficient Constable, Sheriff or deputy, in every such case the officer executing such warrant of distress, shall make sale thereof at public vendue to the highest bidder, and execute a good deed or deeds, of bargain and sale thereof, to the purchaser, having first given notice of the time and place of sale; by posting advertisements, at least fourteen days previous thereto, in two or more public places in the town or place where such lands or tenements lie, as also in the two adjacent towns; and all deeds and conveyances of any such lands or tenements duly executed as aforesaid, shall be good and effectual in law unto the purchaser, his heirs and assigns forever to all intents and purposes, as though executed by the deficient Constable, Sheriff or deputy. *s. 47.*

3. In case the produce of such lands and tenements shall not satisfy the sum or sums mentioned in the said warrant or warrants of distress, together with reasonable charges arising thereon, then the Treasurer issuing such warrant, shall issue an alias execution or warrant of distress for such remaining sum or sums, and the officer executing the same, for want of estate, shall take the body of such deficient Constable, Collector or deputy Sheriff, and him commit unto the common jail of the county whereto he belongs until he pay the same: *Provided, always,* That when any Constable, Collector or deputy Sheriff shall be committed to jail for default in payment of any taxes committed to him to collect, such Constable, Collector or deputy Sheriff shall be admitted to the liberty of the jail yard, they procuring sufficient bonds in the same manner as by law is prescribed for other debtors. *s. 47.*

E.—Their power and duty relative to weights and measures.

§ 1. It shall be the duty of the Treasurer of each town in this State, at the expense of such town, to procure, if the

same has not already been done, and ever after to preserve as town standards, a complete set of beams, weights and copper or pewter measures, conformable to the State Standards;* excepting however, the bushel measure; and excepting also, that no Treasurer of any town shall be bound to procure a nest of Troy weights other than from the lowest denomination to the size of eight ounces, which it is hereby made his duty to procure: *Provided*, it shall be lawful for the Treasurer of any town to procure a wooden half bushel, peck, and half peck, conformable as to breadth and contents to the copper or pewter measures of the same denomination, in lieu of such copper or pewter measures, all of which he shall cause to be well tried, proved and sealed as aforesaid, either by the Treasurer of this State, or of the county within which such town shall be situated, and to have the same tried, proved and sealed as aforesaid, once in every ten years afterwards. And it shall also be the duty of Town Treasurers, to procure at the expense thereof, and to preserve a proper town seal, for the purposes hereinafter mentioned. And if any town Treasurer shall neglect his duty in the premises, he shall for each neglect, forfeit and pay one hundred dollars, one moiety thereof to the use of the town, and the other moiety to him or them who shall sue for the same, to be recovered in an action of debt, with costs of suit. *ch. 131, s. 3.*

* It shall be the duty of the Treasurer of this State, at the expense thereof to cause to be had and preserved as public standards, and which shall be used only as such, the following beams, weights and measures, to wit: one bushel, one half bushel, one peck, one half peck, one ale quart, one wine gallon, one wine half gallon, one wine quart, one wine pint, one wine half pint, and one wine gill; said measures to be made of copper or pewter, conformable as to contents, to said standard measures, and as to breadth, that is to say, the diameter of the bushel, not less than eighteen inches and a half, containing thirty-two Winchester quarts; of the half bushel, not less than thirteen inches and three quarters, containing sixteen Winchester quarts; of the peck not less than ten inches and three quarters, containing eight Winchester quarts; and of the half peck not less than nine inches, containing four Winchester quarts; admeasurement to be made in each instance, within side of the measure: also one ell, one yard, one set of brass weights to four pounds, computed at sixteen ounces to the pound, with fit scales and steel beam: also a good beam and scales, and a nest of Troy weights, from one hundred and twenty-eight ounces down to the least denomination, with the weight of each weight, and the length of each measure marked or stamped thereon respectively, and sealed with a seal, to be procured and kept by the Treasurer aforesaid: and also one *fifty-six pound weight*, one *twenty-eight pound weight*, one *fourteen pound weight*, and one *seven pound weight*, made of iron. *a. 1.*

2. It shall be the duty of the Treasurers of the several towns, at the expense of their respective towns within one year after the first day of July, which shall be in the year of our Lord one thousand eight hundred and twenty-four, and once in every ten years afterwards, to have their town standards of Troy weight compared, proved and sealed by the Treasurer of the State or of the county wherein such town shall be, or some person thereto specially authorized by said State or county Treasurer. *ch. 131, s. 9.*

3. The Treasurers of such towns as shall vote to have more than one sealer of weights and measures, shall at the expense of the town procure, and shall preserve the necessary additional seals, weights and measures, before specified; so that each sealer may have complete sets of the same, under like penalties and forfeitures as are provided in the third section of this Act. *s. 4.*

4. This act shall take effect and be in force until such time as the Congress of the United States shall have fixed by law the Standards of weights and measures. *s. 12.*

TYTHINGMEN.*

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| <p>§ 1. Their duty to inform of offences.</p> <p>2. Their oath.</p> <p>3. Authority to enter public houses.</p> <p>4. Authority to examine travellers.</p> | <p>5. Proceedings on refusal to answer, or giving false answer.</p> <p>6. Their testimony conclusive, if not invalidated.</p> <p>7. Duty of Constables, &c.</p> |
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§ 1. The tythingmen chosen, or which shall be chosen in the several towns within this State, shall be held and obliged to inquire into and inform of all offences against this act.† *ch. 9, s. 10.*

* For choice and qualifications of, see title Elections.

† No traveller, drover, wagoner, teamster, or any of their servants, shall travel on the Lord's day, or any part thereof, (except from necessity or charity) under a penalty not less than four dollars nor more than six dollars and sixty-six cents; to be recovered with costs of prosecution, upon complaint before any Justice of the Peace in the County, one moiety to the complainant and the other to the use of the County, or by presentment of the Grand Jury, in which case the whole penalty shall enure to the benefit, of the County: *Provided*, Prosecution shall be commenced within six months, unless the offender resides without the State. *s. 1.*

No person shall keep open his shop, warehouse or workhouse, nor shall, upon land or water, do any manner of labor, business or work, (works of necessity and charity only excepted) nor be present at any concert of music, dancing or any public diversions, show or entertainment, nor use any sport, game, play or recreation, on the Lord's day, or any part thereof, upon penalty of a sum not exceeding six dollars and sixty-six cents, nor less than four dollars for each offence. *s. 2.*

No vintner, retailer of strong liquors, innholder or other person keeping a house of public entertainment, shall entertain or suffer any of the inhabitants of the towns where they dwell, or others not being travellers, strangers or lodgers in such houses, to abide and remain in their houses, yards, orchards or fields, drinking, or spending their time either idly or at play or doing any secular business on the Lord's day or any part thereof, on penalty of three dollars and thirty-three cents, for each person so entertained or suffered; and every person so drinking or abiding (except as aforesaid) shall pay a fine not less than two dollars, nor more than four, for each offence: and every such licensed person, upon any conviction after the first, shall pay a fine of six dollars and sixty-six cents, for each offence: and having been three times convicted, shall be debarred from renewing his license forever *stat. s. 3.*

2. All such Tythingmen shall take the following oath : You being chosen a Tythingman for the town of—, for the year ensuing, and until another shall be chosen in your room, do solemnly swear, that you will diligently attend to, and faithfully execute the duties of the said office, without partiality, and according to your best discretion and judgment. *So help you God.* ch. 9, s. 10.

3. Every such Tythingman is authorized and empowered, to enter into any of the rooms and other parts of an inn or public house of entertainment, on the Lord's day, and the evening preceding and succeeding; and if such entrance shall be refused to any Tythingman, the landlord or licensed person, shall forfeit the sum of seven dollars for each and every offence. *ib.*

4. The said Tythingmen are hereby further authorized and empowered, within their respective towns, to examine all persons whom they shall have good cause, from the circumstances thereof, to suspect of unnecessarily travelling as aforesaid, on the Lord's day, and to demand of all such per-

The foregoing regulations respecting the Lord's day, extend to the time included between midnight preceding and the sun setting of the same day. s. 4.

No person shall be present at any concert of music, dancing or other public diversion, nor shall any person or persons use any game, sport, play or recreation, on the land or water, on the evening next preceding or succeeding the Lord's day, on pain of three dollars and thirty-three cents for each offence; and no retailer, innholder or person licensed to keep a public house, shall entertain, or suffer to remain, or be in their houses or yards, or other places appurtenant, any person or persons, travellers, strangers or lodgers (excepted) drinking or spending their time on the said evenings, on penalty of three dollars. s. 5.

The fines and penalties aforesaid, shall be one moiety to the town, and the other to any person who shall inform and sue for the same; to be recovered by a complaint to a Justice of the Peace, or by presentment of the Grand Jury, and when thus recovered, shall enure to the town wherein the offence shall be committed. s. 6.

If any person shall on the Lord's day, within the walls of any house of public worship, behave rudely or indecently, he or she shall pay a fine of not more than seven dollars, nor less than one dollar. s. 7.

If any person or persons, either on the Lord's day, or at any other time, shall wilfully interrupt or disturb any assembly of people met for the public worship of God within the place of their assembly, or out of it, he or they shall severally pay a fine not exceeding thirty-three dollars, nor less than three dollars. s. 8.

Fines mentioned in the seventh and eighth sections of this Act shall be for the use of the State. Offences, the penalties against which exceed seven dollars, shall be prosecuted by presentment to the Grand Jury. But otherwise, except the offender lives out of the county in which the offence may be committed, they shall be prosecuted by a complaint before a Justice of the Peace. s. 13.

sons the cause thereof, together with their names and places of abode; and if any person shall refuse to give answer, or shall give a false answer to such demand, he shall pay a fine not exceeding thirteen dollars, nor less than three dollars, and if the reason given for such travelling shall not be satisfactory to such Tythingman, he shall enter a complaint against the person travelling, before a Justice of the Peace in the county where the offence is committed, if such person lives in such county, otherwise shall give information thereof to some Grand Jurymen, to be by him laid before the Grand Jury, for their consideration and presentment. *ch. 9, s. 10.*

5. The oath of any Tythingman shall be deemed full and sufficient evidence, in any trial for any offence against this act, unless in the judgment of the Court of Justice, the same shall be invalidated by other evidence that may be produced. *s. 11.*

6. The special authority given by this Act to Tythingmen, for preventing the breaches thereof, shall not be construed or understood to exempt any Sheriff, Grand Jurors, Constables, or other officers or persons whatsoever, from any obligation or duty, to cause this Act to be put in execution, but they shall be held to take due notice and prosecute all breaches thereof, such special authority notwithstanding. *s. 12.*

Duty of Tythingmen, &c. to apprehend disturbers of Camp Meetings.

Whenever any society or assembly of people shall or may assemble or meet together for religious worship, any Justice of the Peace within and for the county where such meeting may be held; be, and he hereby is, authorized and empowered to cause to be arrested any person or persons who may be found offending in the manner pointed out in the Act to which this is additional, and to cause such person or persons to be detained in custody until the close of said meeting, or until a trial for such offences can be had according to law. *ch. 270, s. 1.*

It shall be the duty of all Sheriffs, Deputy Sheriffs, Constables, Grand Jurors, and Tythingmen, who shall or may be present at the public worship of any religious society which may be interrupted or disturbed, as mentioned in the Act aforesaid, to apprehend any and every such person, so offending, and take him or them, as soon as conveniently may be before some Justice of the Peace, of the county wherein such offence shall have been committed, in order that the person or persons so offending, may be dealt with according to law. *s. 2.*

If any person or persons shall sell or expose to sale, within one mile from any assembly of people met for religious worship, during the time of such meeting, any ardent spirits, wine, beer, cider or any other

r refreshments, or open any booth or tent for such purpose or exhibit any shows or plays, or aid in any horse racing, gaming or sports, he or they, so offending, shall be dealt with as provided in section of this Act: And all such liquors and refreshments, carriages and vessels containing the same, may be taken into by order of any Justice of the Peace, in and for the county in which meeting may be held, and detained until the close thereof, to be delivered on demand to the owners thereof. s. 3.

And Justices, Sheriffs, Deputy Sheriffs, Constables, Grand and Tythingmen, who may be present at such meeting, be, and every one of them, are authorized, whenever persons are found offending in contravention of the provisions herein named, to call to their aid any person or persons who may be present at such meeting; and it shall be the duty of such persons when thus called upon to assist the officers aforesaid in the performance of their duty herein prescribed, under the pains and penalties in the Act defining the general powers and duties of Sheriffs and Constables. s. 4.

WOOD AND BARK.

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| <p>§ 1. Appointment of measurers by Selectmen.</p> <p>2. Their oath; their fees and by whom paid.</p> <p>3. Cording and dimensions of wood.</p> <p>4. Wood or bark brought to any town by land, to be measured and ticket signed before offer of sale.</p> <p>ib. What particulars certified by ticket; forfeitures and appropriation.</p> <p>5. Of the cording and measurement of wood brought by water.</p> <p>ib. Who shall pay the fees.</p> | <p>6. Power of measurers as to wood carried away from wharf, &c.</p> <p>ib. Forfeiture in case.</p> <p>ib. Proviso as to wood transported by purchaser from wharf to dwellinghouse, &c.</p> <p>7. Penalty of wharfinger or carrier for carrying away unmeasured wood.</p> <p>8. Mode of recovering forfeitures.</p> <p>9. In case of evident intent to defraud, the seller shall forfeit not exceeding \$5.</p> <p>10. Charcoal may be sold by cord.</p> <p>ib. Measurers of wood and bark to be measurers of coal.</p> |
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§ 1. In each town in this State, where the inhabitants shall, in town meeting legally assembled, judge and vote the same to be necessary; and wherein firewood or bark is usually sold, the Selectmen shall annually, or as occasion may require, appoint one or more suitable persons, and conveniently situated in the town to be measurers of wood and bark there exposed or brought in for sale, and shall give public notice thereof. *ch. 160, s. 2.*

2. Said measurer or measurers shall be sworn to the faithful and diligent discharge of their office; and shall receive such fees or allowance for their service as the selectmen shall appoint, to be paid by the driver of the wood or bark, and repaid by the buyer, where brought in by land, and by the wharfinger where brought in by water, and the measurer shall be entitled to his action therefor accordingly. *s. 2.*

3. All cord wood exposed to sale, shall be four feet long, including half of the scarf; and the cord being well and close laid together, shall measure eight feet in length, four feet in width, and four feet in height. *s. 1.*

4. If any firewood or bark brought by land into any town for sale, wherein such measurers shall be so appointed, shall be offered for sale before the same shall be measured, by such measurer, and a ticket signed by him and delivered to the

driver, certifying the quantity of wood the load contains, the name of the driver and the town in which he resides, such wood or bark shall be forfeited; two thirds to the use of the poor of the town where offered for sale, and the other third part thereof to the measurer or any other person who shall prosecute for the same. *ch. 160, s. 3.*

5. All cord wood brought in by water into any town for sale, shall be measured by a measurer duly appointed and sworn as aforesaid; and in order thereto, the wood so brought in, shall be corded and piled by itself upon the wharf or land whereon the same shall be landed, in ranges, making up in height what shall be wanting in length; at which time it shall be so measured, and a ticket given to the purchaser, who shall be obliged to pay the stated fees or allowance for such service as appointed by the Selectmen. *s. 4.*

6. Every wharfinger, carter or driver, that shall cart, or carry any firewood from any wharf or landing place in any town, shall be furnished by the owner or seller of such wood, with a ticket, certifying the quantity the load contains and the name of the driver. And if any firewood shall be carted or carried as aforesaid, without such ticket accompanying the same, or if any driver shall refuse to produce and shew such ticket, on demand, to any measurer, duly sworn as aforesaid, or his consent to have the same measured; or if such ticket shall certify a greater quantity of wood than the load contains, in the opinion of the measurer aforesaid, after measuring the same, such wood shall be forfeited and seized; two thirds to the use of the poor of the town, where offered for sale, and the other one third to the measurer or whoever shall prosecute for the same; to be recovered as the other forfeitures of this Act are directed to be recovered: *Provided nevertheless*, That nothing herein contained shall be construed to extend to any person or persons, who shall transport or cart or cause to be transported or carted from any wharf or landing place, to his or their own dwelling-houses or stores, any cord wood which he or they shall have purchased on such wharf or landing place, or shall have landed thereon upon his or their own account. *s. 6.*

7. If any wharfinger or carter shall cart or carry away any firewood from any wharf or landing place in any town, (except for the use and consumption of such wharfinger or carter,) before the same shall have been measured by some measurer appointed as aforesaid, he shall forfeit and pay *one dollar for every load of wood so carried off: one moiety*

thereof to the use of the poor of the town, where the offence shall be committed, and the other moiety to any person who shall prosecute for the same. *ch.* 160, *s.* 5.

8. All the forfeitures aforesaid, may be recovered, with costs of suit, by action of debt before any Court proper to try the same. *s.* 9.

9. Whenever any wood, bark or charcoal, may be sold by the cord, foot or load, which may be stowed or loaded in such a manner, as to prevent surveyors of wood and bark from examining the middle of the load, and it shall appear on delivery that the same has been stowed with a view of obtaining payment for a greater quantity than there was in fact, in said load, and with evident intent to defraud the purchaser, the person so selling said wood, bark or charcoal, or the owner thereof, shall forfeit and pay a sum not exceeding five dollars, for the use of the county: with costs of prosecution, to be recovered before any Justice of the Peace in said town. *ch.* 293, *s.* 1.

10. Any charcoal brought into any town for sale, may be measured by the cord or foot, estimating the cord at ninety-six bushels, whenever the purchaser and seller may mutually agree to the same, and measurers of wood and bark in any town shall be measurers of charcoal in the same. *s.* 2.

WORKHOUSE.

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| <ol style="list-style-type: none"> 1. Power of one town to erect workhouse. 2. Choice and duty of Overseers. 3. Several towns may join in building workhouse. ib. Choice and duty of Overseers. 4. Overseers to meet quarterly at workhouse; and at intermediate times. 5. Their power to make by-laws and order allowance to master and assistants. 6. Compensation of master and assistants to be borne by towns. 7. Any two Overseers may commit by warrant, &c. 8. Description of persons to be committed. 9. Idle or indigent foreigners may be committed. | <ol style="list-style-type: none"> 9. Accounts of their expenses to be exhibited to the Legislature. 10. Towns to provide materials, &c. 11. Towns may provide materials besides its proportions, &c. ib. Master's duty in such cases. ib. Controversies between the master and the Overseers how settled. 12. Towns not liable to support persons not sent by their own Overseers. ib. How persons may be discharged. 13. Application of profits. 14. Discontinuance of work-houses. |
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§ 1. When any town shall see meet to erect or provide a house for the reception, support and employment of the idle, and indigent, such town is authorized and empowered thus to do. *ch. 124, s. 1.*

2. The towns aforesaid, as well as those who have already erected such houses, are empowered at their annual meeting, for the choice of town officers, to choose three, five, even, or more Overseers of the said house; who shall have the inspection and government thereof, with power of appointing a master, and needful assistants for the more immediate care and oversight of the persons received into or employed in said house; which Overseers, once in every month, and at other times as occasion shall require, shall assemble together for the purpose of determining the most eligible method of discharging the duties of their office; and at their stated monthly meetings shall have power to make needful orders and regulations for such house, which orders shall be binding until the next public meeting of the inhabitants of such town, to whom such orders shall be presented for approbation; and when by them approved, shall be obligatory, until revoked by the town. *ch. 124, s. 1.*

3. When any number of towns shall agree (at their joint charge, and for their common benefit) to erect or provide a workhouse for the employment of persons residing in such towns that are indigent or idle : or to purchase land whereon to erect such house, or for the accommodation thereof, they shall be and hereby are vested with power and authority thus to do ; and the ordering and governing the same, making the necessary repairs thereof, appointing a master and other assistants, and the power of removing him or them from their respective offices or trusts for irregular behaviour, incapacity, or for other sufficient cause, shall be vested in Overseers, to be from year to year specially chosen by the several towns, at their annual meeting for the choice of town officers ; each town to choose three, unless all the towns engaged in the undertaking shall agree upon a different number : and in case of the death of an Overseer, or his removal from the town for which he was appointed, the vacancy made thereby may be supplied by such town, at any other public meeting ; and if any town concerned shall neglect to choose such Overseers, in such case, the person or persons chosen in the other towns may proceed in all affairs of the said house, any such neglect notwithstanding. *ch. 124, s. 2.*

4. There shall be stated quarterly meetings of all the Overseers, on the first Tuesday of the months of January, April, July and October, annually, to be held at the workhouse, in order to inspect the management, and for directing the business thereof ; and besides those stated meetings, intermediate ones, to be held at the workhouse, may be called by the Overseers of any town concerned ; due notice of the time and occasion thereof being given to the rest in such way and manner as shall be agreed upon by the Overseers, at any general stated meeting ; and the said Overseers, when duly assembled, may choose a Moderator ; and at their first general meeting annually, after their appointment, they shall likewise choose a Clerk, to enter and record all votes and orders that shall be made and passed by the Overseers, who shall be sworn to the faithful discharge of his trust. *s. 3.*

5. The Overseers for the time being at a general quarterly meeting, provided one half, at least, of the whole number chosen are present, shall have full power and authority to make all reasonable orders and by-laws, not repugnant to the laws of this State, for the ordering and regulating the said house, and the affairs thereof ; which orders and by-laws shall continue and be in force, until altered, amended

or reversed by them or their successors in office, and may likewise agree with the master or other assistants, and order meet allowance for their care and service; and all other matters of less importance, relating to the said house, may be transacted at any other meeting duly notified, when only one third part of the Overseers are present; subject nevertheless to be altered or reversed at any general stated meeting. *ch. 124, s. 4.*

6. The yearly stipend, or allowance to the master and assistants, over and above what is provided for by this act, for their care and trouble, together with charge of keeping the house in repair, shall be paid by the several towns concerned, in proportion as they are taxed to the State, at the time the expense is incurred; or in such other proportion as all the towns concerned shall agree upon: And, if any town or towns shall refuse or neglect to advance, or reimburse their respective proportions of such allowance or other charges before mentioned, after they shall have been stated and adjusted by the Overseers, the same may be recovered of such delinquent town or towns, in any Court proper to try the same, by action to be brought by such person or persons, as the Overseers shall in writing appoint for that purpose. *s. 5.*

7. Any two or more of the Overseers in any town already provided with such house, and any two or more of the Overseers in any town that either by themselves or in conjunction with other towns, shall hereafter erect a workhouse, be, and they are hereby authorized, empowered and directed to commit to such house by writing, under the hands of the said Overseers, to be employed and governed according to the rules and orders of the house, any person or persons, residing in such town that are in this Act declared liable to be sent thither: *Provided*, That no greater number of persons belonging to any town, be received into the house, than such town's proportion of the said house to be allotted them, can accommodate, when the receiving them will exclude or incommode such as belong to other towns; and an order of commitment from two or more Overseers, directed to a Constable of the same town, shall, by such Constable be obeyed and executed. *s. 6.*

8. The persons who shall be liable to be sent unto, employed and governed in any workhouse erected or to be erected by one or more towns, in pursuance of this Act, are, all poor and indigent persons that are maintained by, or receive alms from, the town; also all persons able of body to

work and not having estate or means otherwise to maintain themselves, who refuse or neglect so to do; live a dissolute vagrant life, and exercise no ordinary calling or lawful business, sufficient to gain an honest livelihood; and all such having some rateable estate, but not sufficient to render them liable to pay any tax for such property equal to two thirds of a poll tax, do neglect the due care and improvement thereof; and such as spend their time and property in public houses, to the neglect of their proper business; or, by otherwise mispending what they earn, to the impoverishment of themselves and their families, are likely to become chargeable to the town or to the State. *ch. 124, s. 7.*

9. When any foreigner or other person, not a legal inhabitant of any town within this State, shall become idle or indigent, it shall be the duty of the Overseers of the town in which such person resides, or any two of them to commit such idle or indigent person to the workhouse belonging to the same town, or in which such town is interested; and the person or persons so committed, shall be under the care of the keeper of such house, and be employed, if capable of labor, in the same way and manner as is herein before directed, and shall be subject to the same rules and regulation as others committed to said house. And such Overseer shall keep a fair account of the charge of supporting such idle or indigent person from time to time, and shall exhibit the same once in every year, at the least, to the Legislature for allowance and payment, deducting therefrom the amount of such person's earnings. *s. 8.*

10. If any town shall refuse or neglect to provide its proportion of the needful furniture for such house, or the materials, implements or other necessary apparatus for carrying on the work there to be performed according to their agreement, or as shall be directed by the Overseers, such town shall be deprived of the privilege of sending any person thither, until they shall comply with such agreement or direction. *s. 9.*

11. Beside the aforesaid proportion of materials and other things to be found by the towns concerned, each town may likewise provide such other materials and tools for work, and the overseers for such town shall determine any person by them committed to the said house, can be employed about more advantageously; and the master of the house shall receive such materials and tools, and keep them separate and apart from those sent from any other town, and shall be accountable to the overseers of each town concerned, as well

for the prime costs, as for all profits and earnings that shall be made by the labor of those belonging to such town under his care ; and shall keep a register of the names of the persons committed to such workhouse, and of the towns to which they respectively belong, with the time of their being received into, and discharged therefrom, and of their earnings, that the same may appear to any of the Overseers whenever they shall incline to inspect them ; and all controversies between the master or keeper of such house, and the Overseers of any town, touching his accounts, or other his affairs whatever respecting the workhouse may be determined by the overseers of the house at a general or quarterly meeting. *ch. 124, s. 10.*

12. No town shall be chargeable for the relief or support of any person committed to the said house, who was not sent thither by the Overseers belonging to such town ; nor shall any person orderly committed to the said house be discharged therefrom, but by the Overseers that made the commitment, or by the Overseers at a general or quarterly meeting, or otherwise by the Court of Common Pleas, in the same county, upon application to them made for that purpose ; and every person thus committed, if fit and able to work, shall be kept diligently employed in labor, during his or her continuance there ; and in case the person so committed, shall be idle and not perform such reasonable task or stint as shall be assigned ; or shall be stubborn and disorderly, they shall be punished according to the orders that shall be made for ruling, governing and punishing the persons there committed, not repugnant to the laws of this State. *s. 11.*

13. One third part of the profits or earnings of the work done by the persons detained in such house shall be to the master for, and towards his support, over and above such further annual stipend as the Overseers may allow him ; and the prime stock, together with the other two thirds of the profits shall be disposed of by the Overseers of the respective towns, to whom it belongs, either to the master towards his services, or for the support of the families of the persons there detained, if any such they have, or otherwise for the use of such town as occasion shall require. *s. 12.*

14. Any workhouse erected or provided as aforesaid, may be discontinued or applied to any other use whenever the town or towns concerned, shall find their circumstances require it, and shall agree thus to do. *s. 13.*

WEIGHTS AND MEASURES.

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| <p>§ 1. Appointment of sealers of weights and measures.</p> <p>ib. Power of the Selectmen to remove from office and to fill vacancies.</p> <p>2. Sealers to be sworn.</p> <p>ib. Penalties on Sealers and Selectmen for neglect.</p> <p>3. Sealers when sworn to keep the town standards and seal.</p> <p>ib. Their duty in relation to town Treasures.</p> <p>4. Their duty to notify, in May,</p> | <p>the time and place where they will attend to seal, &c.</p> <p>ib. They shall destroy false weights and measures.</p> <p>5. Their duty to visit houses, stores, &c. to prove weights and measures.</p> <p>6. Dearborn's and Hills' vibrating steelyards may be used, provided, &c.</p> <p>7. Penalty on sealers for neglect of duty.</p> <p>8. Limitation of the duration of the act.</p> |
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§ 1. It shall be the duty of the Selectmen of each town in this State, in the month of March or April annually, to appoint a suitable person to be a sealer of weights and measures within the same. And it shall also be the duty of the Selectmen in such towns in this State, as shall, at any of their annual meetings, vote to have more than one sealer of weights and measures within their town, to appoint suitable persons therefor. And the Selectmen of the several towns are hereby authorized to remove from office any person or persons by them appointed as sealers of weights and measures by virtue of this Act. And it shall be the duty of the Selectmen, upon any vacancy which shall happen in the office of sealers of weights and measures, either by death, removal, resignation, refusal to accept, or otherwise, immediately to appoint some other suitable person to fill the place.

ch. 131, s. 4.

2. Each person who shall be appointed to such office shall be notified of his appointment, and sworn as other town officers are. And if any person so appointed and notified shall refuse or neglect to take such oath, for the term of seven days after he shall have received such notice, he shall forfeit and pay five dollars, to be recovered in the manner and to the uses other fines are, for refusing to serve in other town offices. And if any Selectman shall not duly execute this

law, so far as to him appertains, he shall forfeit and pay, for each month's neglect, the sum of ten dollars, to be recovered in like manner, and to like uses. *ch.* 131, *s.* 4.

3. It shall be the duty of each sealer of weights and measures, as soon as appointed and sworn, to receive of the town Treasurer, the said town standards and seal, and to give him a receipt therefor, expressing the contents thereof and the condition in which the same may be, and in such receipt engaging, at the expiration of his (the said sealer's) office to deliver the same in like order and condition, to the said Treasurer; and such sealer shall be accountable to the town for the due preservation of the same, so long as he shall hold them on such receipt. *s.* 5.

4. It shall be the further duty of the said sealer of weights and measures in the month of May in every year, to post up written notifications in the several parts of the town expressing therein the time and place, when and where he will attend such of the inhabitants as live within the limits described in his notification, and seal all such of their great and small beams, weights and measures as they shall bring in for that purpose. And the said sealer shall deface and destroy all weights and measures which cannot be brought to their just standards.* *s.* 6.

5. The said sealer is hereby authorized and required, to go to the houses of such innholders, and to the warehouses, stores and shops of such merchants, traders and retailers of spirituous liquors, and to the houses of such of the other inhabitants as shall neglect as aforesaid, to bring or send in, the said beams, weights and measures, and there, (at their said houses, stores, shops and warehouses) to try, prove and seal the same beams, weights and measures.† *s.* 7.

6. The vibrating steelyard invented by Benjamin Dearborn, and the vibrating steelyard invented or improved by Samuel Hills, are permitted to be used in all cases of weighing throughout this State: *Provided*, That before being offered for sale, or the same shall be used, each beam and the poises thereof, shall be sealed by some public sealer of weights and measures, appointed according to law. *s.* 10.

* For the Standards, see Treasurers, D.

† If any such person or persons, shall refuse or neglect to have his, her or their beams, weights or measures so tried, proved and sealed, he, she or they shall forfeit and pay ten dollars for each offence; one moiety to the use of the poor of the town and the other moiety to the sealer, to be recovered in an action of debt, with costs as aforesaid. *s.* 7.

7. If any sealer of weights and measures shall neglect his duty in any of the cases in this Act specified, he shall for each neglect, forfeit and pay not less than five nor more than ten dollars : one moiety thereof to the town, and the other moiety to the informer, to be recovered by an action of debt, or on the case, with costs as aforesaid.* *ch. 131, s. 7.*

8. This act shall take effect and be in force until such time as the Congress of the United States shall have fixed by law the standards of weights and measures. *s. 12.*

* All measures by which fruit or any other things usually sold by heaped measure, shall be sold, shall be conformable as to capacity and breadth, to the public allowed standards as aforesaid. And if any person shall sell or expose to sale, any fruit or other thing, usually sold by heaped measure, by any other measure as to capacity and breadth, than is before mentioned, or shall sell, or expose to sale, any goods, wares or merchandize, grain or other commodity whatsoever, by any other beams, weights or measures, than those sealed as aforesaid, he shall forfeit and pay, for each offence not less than one dollar, nor more than ten dollars according to the circumstance of the case ; one moiety thereof to the use of the town, and the other moiety to the said sealer or to him or them who shall sue for the same, to be recovered in an action of debt, or on the case, with costs of suit, in any Court proper to try the same. *s. 11.*

The sealers of weights and measures, who may hereafter be appointed in the several towns and cities in this State, in pursuance of the act to which this is additional, shall be entitled to demand and receive, for trying and proving by said town and city standards, and sealing as in said act is provided, the following fees to wit : Four cents for each beam, weight and measure found to be not conformable to said standards—and two cents for each beam, weight and measure found to be conformable thereto—said fees to be paid by the person or persons whose weights, measures and beams shall be compared as aforesaid. *ch. 306, stat. of 1838.*

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